



**SENATE SUBSTITUTE AMENDMENT 1,  
TO 1995 SENATE BILL 376**

January 18, 1996 – Offered by COMMITTEE ON ENVIRONMENT AND ENERGY.

1 **AN ACT** *to repeal* 23.095 (2); *to renumber and amend* 23.095 (1), 23.095 (3),  
2 27.01 (14) (title) and 27.01 (14); *to amend* 23.095 (title) and 23.79 (3); and *to*  
3 **create** 23.095 (1), 23.095 (1m), 23.095 (3) (title), 23.095 (3) (b), 23.095 (3) (c),  
4 23.095 (3) (d), 23.095 (4) and 27.067 (2) of the statutes; **relating to:** damaging  
5 natural resources and archaeological features and providing penalties.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

6 **SECTION 1.** 23.095 (title) of the statutes is amended to read:

7 **23.095 (title) Malicious waste Protection of natural resources.**

8 **SECTION 2.** 23.095 (1) of the statutes is renumbered 23.095 (1g) and amended  
9 to read:

10 23.095 (1g) (title) GENERAL PROHIBITION. ~~It is unlawful to unreasonably waste,~~  
11 ~~injure, destroy or impair~~ No person may damage or attempt to damage any natural  
12 resource within the state.

13 **SECTION 3.** 23.095 (1) of the statutes is created to read:

14 **23.095 (1) DEFINITIONS.** In this section:

1 (a) "Damage" means to commit a physical act that destroys, molests, defaces,  
2 removes or unreasonably wastes.

3 (b) "Discharge" has the meaning given in s. 144. 76 (1) (a).

4 (c) "Hazardous substance" has the meaning given in s. 144.01 (4m).

5 **SECTION 4.** 23.095 (1m) of the statutes is created to read:

6 23.095 (1m) PROHIBITION ON DEPARTMENT LAND. (a) No person may damage or  
7 attempt to damage any natural resource or any archaeological feature located on  
8 state-owned lands that are under the supervision, management and control of the  
9 department except as authorized by the department.

10 (b) Paragraph (a) does not apply to state-owned lands that are beds of  
11 navigable waters.

12 **SECTION 5.** 23.095 (2) of the statutes is repealed.

13 **SECTION 6.** 23.095 (3) (title) of the statutes is created to read:

14 23.095 (3) (title) PENALTIES.

15 **SECTION 7.** 23.095 (3) of the statutes is renumbered 23.095 (3) (a) and amended  
16 to read:

17 23.095 (3) (a) Any person who violates ~~this section~~ sub. (1g) shall forfeit not  
18 more than \$50 \$100.

19 **SECTION 8.** 23.095 (3) (b) of the statutes is created to read:

20 23.095 (3) (b) Except as provided in pars. (c) and (d), any person who violates  
21 sub. (1m) shall forfeit not more than \$200.

22 **SECTION 9.** 23.095 (3) (c) of the statutes is created to read:

23 23.095 (3) (c) If a person violates sub. (1m) and the violation involves damaging  
24 or attempting to damage a natural resource and the violation occurs on land in a state

1 natural area, as defined in s. 23.27 (1) (h), the person shall forfeit not more than  
2 \$2,000.

3 **SECTION 10.** 23.095 (3) (d) of the statutes is created to read:

4 23.095 (3) (d) 1. If a person violates sub. (1m) and the violation involves  
5 damaging or attempting to damage an archaeological feature, the person shall forfeit  
6 not less than \$100 nor more than \$10,000.

7 2. If a person violates sub. (1m) and the violation involves intentionally  
8 damaging or intentionally attempting to damage an archaeological feature, the  
9 person shall be fined not more than \$10,000 or imprisoned for not more than 9  
10 months or both.

11 **SECTION 11.** 23.095 (4) of the statutes is created to read:

12 23.095 (4) EXCEPTIONS. (a) This section does not apply to any person upon  
13 whom liability is imposed under 42 USC 9607 (a) for injury to, destruction of or loss  
14 of natural resources within the state.

15 (b) If a natural resource or archaeological feature is damaged by the discharge  
16 of a hazardous substance, this section does not apply to the person who caused the  
17 discharge unless the person who caused the discharge did so with the intent to  
18 damage the natural resource or archaeological feature or to any other person who  
19 possesses or controls the hazardous substance subsequent to the discharge.

20 **SECTION 12.** 23.79 (3) of the statutes is amended to read:

21 23.79 (3) In addition to any monetary penalties, the court may order the  
22 defendant to perform or refrain from performing such acts as may be necessary to  
23 fully protect and effectuate the public interest. The court may order abatement of a  
24 nuisance, restoration of a natural resource, restoration of an archaeological feature

1 subject to the prohibition under s. 23.095 (1m), or other appropriate action designed  
2 to eliminate or minimize any environmental damage caused by the defendant.

3 **SECTION 13.** 27.01 (14) (title) of the statutes is renumbered 27.067 (title) and  
4 amended to read:

5 **27.067 (title) Penalties for damages in county parks.**

6 **SECTION 14.** 27.01 (14) of the statutes is renumbered 27.067 (1) and amended  
7 to read:

8 27.067 (1) ~~The penalties for the destruction of~~ No person may destroy any  
9 notices, posted by the department a county, or for the breaking, tearing up or marring  
10 of break, tear up or mar trees, vines, shrubs or flowers, ~~the dislocation of~~ dislocate  
11 stones or ~~the disfigurement of~~ disfigure natural conditions within the boundaries of  
12 any state or county parks or state fish hatchery grounds shall be the same as those  
13 provided in s. ~~26.19 (1)~~ park.

14 **SECTION 15.** 27.067 (2) of the statutes is created to read:

15 27.067 (2) Any person who violates sub. (1) shall forfeit not more than \$100.

16 **SECTION 16. Initial applicability.**

17 (1) This act first applies to offenses committed on the effective date of this  
18 subsection.

19 (END)