



1995 SENATE BILL 376

October 12, 1995 - Introduced by Senators SCHULTZ, A. LASEE, BRESKE, WELCH, COWLES, ZIEN and FARROW, cosponsored by Representatives FREESE, MUSSER, GREEN, CARPENTER, HAHN, DOBYNS, BAUMGART, HUTCHISON, KRUG, HANSON, OTTE, JOHNSRUD, NOTESTEIN, BRANDEMUEHL, RYBA, GROBSCHMIDT, BOCK, OLSEN, SILBAUGH, F. LASEE and GROTHMAN. Referred to Committee on Environment and Energy.

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

Analysis by the Legislative Reference Bureau

The bill changes some of the provisions under current law that prohibit the damaging of natural resources in this state. Under the bill, damaging means destroying, molesting, defacing, removing or unreasonably wasting natural resources. The changes in the bill include the following:

1. The bill increases the forfeiture for damaging a natural resource, regardless of whether it is on land under the jurisdiction of the department of natural resources (DNR), from not more than \$50 to not more than \$100.

2. The bill creates a separate forfeiture of not more than \$200 for damaging a natural resource or an archaeological feature that is on land under the jurisdiction of DNR.

3. The bill creates a separate forfeiture of not more than \$2,000 for damaging a natural resource that is in a state natural area.

4. The bill creates a penalty of a fine of not more than \$10,000 or imprisonment of not more than 9 months, or both, for damaging an archaeological feature on land under the jurisdiction of DNR.

5. The bill allows the court to order remedial activities, including requiring the defendant to restore the natural resource or archaeological feature or to pay for the value of the loss caused by the damage.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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

2 **23.095** (title) ~~Malicious waste~~ **Protection of natural resources.**

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

5 23.095 **(1g)** (title) GENERAL PROHIBITION. ~~It is unlawful to unreasonably waste,~~
6 ~~injure, destroy or impair~~ No person may damage or attempt to damage any natural
7 resource within the state.

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

9 23.095 **(1)** DEFINITION. In this section, “damage” means destroy, molest, deface,
10 remove or unreasonably waste.

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

12 23.095 **(1m)** PROHIBITION ON DEPARTMENT LAND. No person may damage or
13 attempt to damage any natural resource or any archaeological feature on land under
14 the jurisdiction of the department except as authorized by the department.

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

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

17 23.095 **(3)** (title) PENALTIES.

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

20 23.095 **(3)** (a) Any person who violates this section ~~sub.(1g)~~ shall forfeit not
21 more than \$50 \$100.

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

2 23.095 (3) (b) Except as provided in pars. (c) and (d), any person who violates
3 sub. (1m) shall forfeit not more than \$200.

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

5 23.095 (3) (c) If a person violates sub. (1m) and the violation involves damage
6 of or an attempt to damage a natural resource and the violation occurs on land in a
7 state natural area, as defined in s. 23.27 (1) (h), the person shall forfeit not more than
8 \$2,000.

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

10 23.095 (3) (d) If a person violates sub. (1m) and the violation involves damage
11 of or an attempt to damage an archaeological feature, the person shall be fined not
12 more than \$10,000 or imprisoned for not more than 9 months or both.

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

14 23.095 (4) OTHER ENFORCEMENT. (a) In addition to the penalties specified under
15 sub. (3), for a violation of this section or any rule promulgated by the department that
16 relates to natural resources or archaeological features being damaged, the court may
17 do any of the following:

18 1. Order the defendant to perform or refrain from performing such acts as may
19 be necessary to fully protect and effectuate the public interest in natural resources
20 or archaeological features.

21 2. Order the defendant to abate the defendant's activity that is damaging the
22 natural resource or archaeological feature.

23 3. Order the defendant to restore the natural resource or archaeological
24 feature.

