

State of Wisconsin



1995 Senate Bill 376

Date of enactment: **June 6, 1996**
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1995 WISCONSIN ACT 391

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

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

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

23.095 (title) Malicious-waste Protection of natural resources.

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

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

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

23.095 (1) DEFINITIONS. In this section:

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

(b) "Discharge" has the meaning given in s. 144.76 (1) (a).

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

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

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

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

SECTION 5. 23.095 (2) of the statutes is repealed.

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

23.095 (3) (title) PENALTIES.

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

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

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

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

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

23.095 (3) (c) If a person violates sub. (1m) and the violation involves damaging or attempting to damage a

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

natural resource and the violation occurs on land in a state natural area, as defined in s. 23.27 (1) (h), the person shall forfeit not more than \$2,000.

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

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

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

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

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

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

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

23.79 (3) In addition to any monetary penalties, the court may order the defendant to perform or refrain from performing such acts as may be necessary to fully protect and effectuate the public interest. The court may order abatement of a nuisance, restoration of a natural resource, restoration of an archaeological feature subject to the prohibition under s. 23.095 (1m), or other appropriate action designed to eliminate or minimize any environmental damage caused by the defendant.

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

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

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

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

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

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

SECTION 16. Initial applicability.

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