

CHAMPION TREES PROTECTION ACT

House Bill 4675

Sponsor: Rep. William Bobier

Committee: Forestry and Mineral Rights

Complete to 12-1-97

A SUMMARY OF HOUSE BILL 4675 AS INTRODUCED 4-23-97

The bill would add a new part, Part 508, titled "Champion Trees Protection," to the Natural Resources and Environmental Protection Act (NREPA), to protect trees that had been designated state or national "champion trees," and to establish penalties for cutting down these trees. The bill would define a champion tree as any tree that, according to its circumference, measured at 4.5 feet above the ground, and its height was rated a second or third to any champion tree species or genus, as measured by National Champion Standards. The definition would also apply to a tree that exceeded or was likely to exceed the standards of a champion tree or candidate champion tree during its life span. The bill would specify that the protection, management, sustainability, and restoration of Michigan's trees and forests are declared to be of paramount concern to the state; that located within the state are older, magnificent trees that have been or could be identified as national champion trees or state champion trees, according to lists and records maintained by nationally and state-recognized tree or forestry organizations; that these trees took root before and have survived the modern industrial age and, therefore, could represent an extraordinarily rare, unique, and valuable biological or genetic heritage for educational, scientific, ecological, and reforestation or ornamental purposes; and that accordingly, it is hereby declared that the national and state champion trees, their roots, soils, and habitat are declared to be impressed with a public trust and are of paramount concern for the conservation and development of the natural resources and environment of the state.

The following are the main provisions of the bill:

C The Department of Natural Resources (DNR) would be required to maintain a list of champion and candidate champion trees that described the family, genus, and species; the measurements or parameters of why each was a protected tree; and the section, town and range of its location.

C Any person could submit a proposal to have a champion or candidate champion tree included on the DNR's list.

C The state forester would be required to give written notice in its publications, public notices, and calendar of any submission for classification as a champion or candidate champion tree, and also give written notice to colleges and universities; university research facilities related to agriculture or natural resources; agricultural or botanical organizations or societies; the landowner on whose property the proposed candidate was located; and any other person who had requested to be placed on a notice list for such submissions.

C Upon receiving a complete submission, the DNR would be required to classify the tree as a proposed champion or proposed candidate champion tree and to study and evaluate the submission in cooperation with university and college professors, scientists, and students engaged in agriculture, forestry, horticulture, and plant sciences, representatives or professionals associated with nonprofit organizations or other entities whose primary purpose is the protection of trees, forestry, forest protection, management or reforestation, or animal and plant life and habitat or communities.

C A member of the public would have an opportunity to submit information regarding any submission.

C The DNR, through the state forester, would have one year to study the proposed candidate tree, after which it would have to either approve or deny the proposed addition to the list within 120 days. Otherwise, the proposed candidate would be considered added to the list.

C During any study, evaluation, or decision period, the proposed candidate or champion would have to be protected as if it were a candidate or champion tree.

C A champion or candidate champion tree on the list would be considered a rare, unique, and significant statewide natural resource and could not be "taken" (cut down, collected, injured, harmed, or destroyed) except if the action were necessary to prevent immediate threat to health or life or injury to property, or if a permit had been issued under the provisions of the bill.

C The DNR would grant a permit to take a champion or candidate champion tree on the list if either or both of the following conditions were met: there was no alternative to the proposed take in order to protect the health and safety of persons and property and proper viable cuttings had been obtained to achieve successful propagation at a qualified nursery, research facility, or living library that was on an approved list established by the state forester; and it had been shown that the tree was diseased and dying, would not survive for more than five years, and proper viable cuttings had been obtained.

C Trimming, pruning, or engaging in other action with respect to a champion or candidate champion tree on the list would be prohibited unless it had been shown that there would be no likely long-term injury.

C Trimming, collecting, or removing a portion of a branch for purposes of propagation of a champion or candidate champion tree on the list would be prohibited unless it had been shown that written consent had been obtained from the owner of the private property on which any portion of the tree or its habitat was located; or if a champion or candidate champion tree were located on public land and proper permission had been obtained from the DNR or other governmental owner of the land.

C A champion or candidate champion tree could be located on public or private lands, but would, nevertheless, remain in the ownership of the owner subject to a declared public trust, and could be taken by a private landowner only as provided under the bill. However, the bill would

specify that the public trust could not deprive or deny any private landowner of his or her lawful use of any such tree.

C The DNR could establish programs, including the acquisition of trees and habitat through conservation or nondevelopment easements, nurseries, or living libraries of trees propagated from root stock or other method from a champion or candidate champion tree, as were considered necessary to carry out the provisions of the bill, and enter into cooperative agreements to carry out these programs.

C The DNR would be required to establish and promulgate rules to implement the provisions of the bill.

C Notice of the existence of a champion or candidate champion tree would have to be provided to a purchaser by a person who sold, transferred, leased or licensed any land on which a tree on the list was located.

Penalties. A person who violated the provisions of Part 508 would be subject to a civil fine of \$2,500 for each occurrence. In addition, the circuit court could, upon petition, provide declaratory, equitable, or injunctive relief for a violation or impending violation. A default in the payment of a civil fine or costs ordered under the provisions of Part 508, or an installment of the fine or costs, could be remedied by any means authorized under the provisions of the Revised Judicature Act (MCL 600.101 et al.). Further, an action could be brought by the attorney general, or any other person in the circuit court for the county in which the violation occurred, or in the Ingham County Circuit Court. The bill would also specify that a violation of Part 508 would be a misdemeanor, punishable by imprisonment for up to one year, a fine of up to \$2,500, or both.

MCL 324.50801 et al.

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