

324.47905

NATURAL RESOURCES AND ENVIRONMENTAL

or occupants of the property, to be recovered in an action of trespass in any court having jurisdiction in the county where the property is located.

P.A.1994, No. 451, § 47905, added by P.A.1995, No. 57, § 1, Imd. Eff. May 24, 1995.

Historical and Statutory Notes

For contingent effect provisions of P.A.1995, No. 57, see the Historical and Statutory Notes following § 324.47901.

For similar subject matter covered under P.A. 1994, No. 451, § 3305, see § 324.3305.

P.A.1917, No. 287.

C.L.1929, § 6424.

C.L.1948, § 307.32.

C.L.1970, § 307.32.

C.L.1979, § 307.32.

Prior Laws:

P.A.1865, No. 350, § 12.

Cross References

Malicious destruction of personal property, see § 750.377a.

PART 483. PASSAGE OF FISH OVER DAMS

324.48301. Rules and regulations; fish ladders

Sec. 48301. The department shall prescribe rules and regulations to provide for the free passage and uninterrupted passage of fish over or through dams now in existence or that are or may be erected over rivers, streams, or creeks. The department may abrogate the provisions of this part that require the erection of fish ladders if the department determines that the height of the dam or the condition of the river or stream makes the installation of the ladders impracticable or unnecessary.

P.A.1994, No. 451, § 48301, added by P.A.1995, No. 57, § 1, Imd. Eff. May 24, 1995.

Historical and Statutory Notes

P.A.1995, No. 57, § 2, provides:

"This amendatory act shall not take effect unless all of the following bills of the 88th Legislature are enacted into law:

"(a) House Bill No. 4351.

"(b) House Bill No. 4350.

"(c) House Bill No. 4349."

House Bill Nos. 4351, 4350, and 4349, were enacted as P.A.1995, Nos. 60, 59, and 58, respectively, and were approved May 23, 1995 and filed May 24, 1995.

P.A.1995, No. 57, was ordered to take immediate effect, and was approved May 23, 1995 and filed May 24, 1995.

Prior Laws:

P.A.1929, No. 123, § 1.

C.L.1929, § 6411.

C.L.1948, § 307.1.

C.L.1970, § 307.1.

C.L.1979, § 307.1.

Cross References

Commercial fishing, see § 324.47301 et seq.

Sports Fishing Law, see § 324.48701.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

324.48302. Inspector of dams; duties; plan, contents, copies

Sec. 48302. The department is the inspector of dams across rivers, streams, and creeks of this state and shall prepare a draft of a general plan that the

department determines will best permit the free passage of large and small fish up and down a stream at the dam. Each plan shall set forth details and specifications for material and construction and connection with the dam that will enable the owner of the dam to properly construct and place the means designated. The department shall furnish a copy of the plans and specifications to each owner or occupant of a dam, on request.

P.A.1994, No. 451, § 48302, added by P.A.1995, No. 57, § 1, Imd. Eff. May 24, 1995.

Historical and Statutory Notes

For contingent effect provisions of P.A.1995, No. 57, see the Historical and Statutory Notes following § 324.48301.

C.L.1929, § 6412.
C.L.1948, § 307.2.
C.L.1970, § 307.2.
C.L.1979, § 307.2.

Prior Laws:

P.A.1929, No. 123, § 2.

Notes of Decisions

In general 1

through streams gave the director no greater authority than the traveling public generally to remove other obstructions to navigable streams. Op.Atty.Gen.1930-32, p. 264.

1. In general

The statutory authority to director of conservation to secure uninterrupted passage of fish

324.48303. Order to owner or user of dam

Sec. 48303. Any person owning or using any dam that exists or may be constructed across any river, stream, or creek in this state, if ordered by the department, shall, within 90 days after the issuance of the order, erect and maintain in good repair sufficient and permanent means to admit the free and uninterrupted passage of fish over or through the dam. The means providing for the free passage of fish shall be of a kind and shall be placed in a manner prescribed by the department.

P.A.1994, No. 451, § 48303, added by P.A.1995, No. 57, § 1, Imd. Eff. May 24, 1995.

Historical and Statutory Notes

For contingent effect provisions of P.A.1995, No. 57, see the Historical and Statutory Notes following § 324.48301.

C.L.1929, § 6413.
C.L.1948, § 307.3.
C.L.1970, § 307.3.
C.L.1979, § 307.3.

Prior Laws:

P.A.1929, No. 123, § 3.

324.48304. Prosecutions; mandamus

Sec. 48304. The department shall prosecute in the name of the people of the state in all cases where this part is violated, and the prosecuting attorney of the county in which a prosecution is commenced under this part shall aid in the prosecution when requested to do so by the department. The attorney general may institute mandamus proceedings in the circuit court for Ingham county to compel any person to comply with this part.

P.A.1994, No. 451, § 48304, added by P.A.1995, No. 57, § 1, Imd. Eff. May 24, 1995.

324.48304**NATURAL RESOURCES AND ENVIRONMENTAL****Historical and Statutory Notes**

For contingent effect provisions of P.A.1995, No. 57, see the Historical and Statutory Notes following § 324.48301.

C.L.1929, § 6414.
C.L.1948, § 307.4.
C.L.1970, § 307.4.
C.L.1979, § 307.4.

Prior Laws:

P.A.1929, No. 123, § 4.

324.48305. Violations of part

Sec. 48305. If any person owning, using, or employing the use of any dam across any of the rivers, streams, or creeks of this state refuses or fails to erect and maintain in proper repair the means or equipment ordered by the department, that person is guilty of a violation of this part, and every period of 30 days during which any person owning or using a dam fails to erect or maintain in proper repair the means or equipment for the free passage of fish renders that person guilty of a distinct and separate offense of this part.

P.A.1994, No. 451, § 48305, added by P.A.1995, No. 57, § 1, Imd. Eff. May 24, 1995.

Historical and Statutory Notes

For contingent effect provisions of P.A.1995, No. 57, see the Historical and Statutory Notes following § 324.48301.

C.L.1929, § 6415.
C.L.1948, § 307.5.
C.L.1970, § 307.5.
C.L.1979, § 307.5.

Prior Laws:

P.A.1929, No. 123, § 5.

324.48306. Construction by department; expenses, payment; tax assessment

Sec. 48306. If the owner or user of any dam refuses or fails to construct and maintain the means or equipment for the free passage of fish when ordered by the department, the department may cause the same to be constructed over or through the dam at the place in the dam that will cause the least injury to the water power, and the expense of the construction of the means for the free passage of fish shall be certified by the department to the county board of commissioners of the county in which the dam is located, and the expense shall be audited by the county board of commissioners and shall be paid from the general fund of the county. The county board of commissioners of any county, upon auditing and allowing the expense, shall order, by resolution, the supervisor of the township or ward in which the dam is situated to spread the expense upon the assessment roll of the township or ward as a tax against the property to which the dam is appurtenant and against the owners of the property to be collected in the same manner as other township taxes and paid over to the county treasurer or returned as delinquent in accordance with law.

P.A.1994, No. 451, § 48306, added by P.A.1995, No. 57, § 1, Imd. Eff. May 24, 1995.

Historical and Statutory Notes

For contingent effect provisions of P.A.1995, No. 57, see the Historical and Statutory Notes following § 324.48301.

Prior Laws:

P.A.1929, No. 123, § 6.
C.L.1929, § 6416.

C.L.1948, § 307.6.
C.L.1970, § 307.6.
C.L.1979, § 307.6.

Cross References

General property tax act, see § 211.1 et seq.

Notes of Decisions

Liability of county 1

1. Liability of county

Under How. § 2155, which provided that a supervisor of a township, on order of the board,

could cause the owner of a dam to construct a fish chute, the expense thereof to be audited and allowed by the board, a county was required to pay for fish chutes constructed by owners of dams within its borders. *Hart v. Board of Sup'rs of Genesee County* (1895) 63 N.W. 67, 105 Mich. 209.

324.48307. Unlawful apparatus or material; violations; screens

Sec. 48307. Except as authorized by law, a person shall not obstruct the channel or course of any river, stream, or creek in this state by placing or causing to be placed in that river, stream, or creek any net, wire, screen, or any other apparatus or material of any kind that will prevent the free passage of fish up and down the river, stream, or creek. A person who violates this section is guilty of a violation of this part. The department may in the public interest authorize the placing of screens in any river, stream, creek, or in the inlet or outlet of any lake.

P.A.1994, No. 451, § 48307, added by P.A.1995, No. 57, § 1, Imd. Eff. May 24, 1995.

Historical and Statutory Notes

For contingent effect provisions of P.A.1995, No. 57, see the Historical and Statutory Notes following § 324.48301.

Prior Laws:

P.A.1929, No. 123, § 7.

C.L.1929, § 6417.
P.A.1939, No. 16.
C.L.1948, § 307.7.
C.L.1970, § 307.7.
C.L.1979, § 307.7.

Notes of Decisions

In general 1

1. In general

Private corporation, which owned land through which navigable and public river

flowed and which had obstructed river so as to use it as fishing preserve, was not entitled to injunction restraining state conservation department, attorney general and others from removing obstructions from such river. *Ne-Bo-Shone Ass'n v. Hogarth*, W.D.Mich.1934, 7 F.Supp. 885, affirmed 81 F.2d 70.

PART 485. SPEARING OF FISH IN HOUGHTON LAKE PROHIBITED

324.48501. Penalty

Sec. 48501. A person shall not spear fish in Houghton lake, Roscommon county. A person who violates this part shall, upon conviction, be punished by a fine of not less than \$10.00 or more than \$100.00, or imprisonment for not less than 10 days or more than 90 days, or both.

P.A.1994, No. 451, § 48501, added by P.A.1995, No. 57, § 1, Imd. Eff. May 24, 1995.