



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 219 (as passed by the Senate)
 Sponsor: Senator Joe Young, Jr.
 Committee: Judiciary

Date Completed: 3-2-95

RATIONALE

In recent years, as communities across the State have become more committed to reducing environmental contamination, local governments have worked to introduce recycling programs and to educate citizens on ways to reduce waste. Many local governments also have increased trash pickup fees to recoup the costs of these programs, and cities that once hauled away old appliances and furniture, at little or no cost to property owners, now charge additional fees for that service. As a result, the old problem of littering has taken on new dimensions, as some people resort to the practice of illegally abandoning old household appliances and other garbage in rural areas and in vacant lots. Old stoves, refrigerators, and ironing boards reportedly have even been dumped in the State's national forests.

Solid waste disposal also has become a profitable business for private entrepreneurs, some of whom apparently dispose of garbage on private lands, in spite of recent laws that have been passed to punish those who are caught. (Public Act 106 of 1963, which prohibits littering, was amended in 1993 to increase the penalties for littering and to impose mandatory community service on offenders.) Many people believe that stricter laws are needed to discourage those who indulge in littering on a large scale. Some argue that the threat of civil liability would be a greater deterrent to illegal dumping than are misdemeanor penalties and would provide a means to recover cleanup costs.

CONTENT

The bill would amend Public Act 106 of 1963, which prohibits the littering of public and private property and waters, to provide for a civil action for a violation of the Act. Under the bill, any person could bring a civil action for damages or equitable

relief, or both, against a person who violated the Act. In an action brought under the bill, a court could compel a person to remove and properly dispose of litter that was the subject of the violation. The court also could award reasonable attorney fees and costs to a plaintiff who prevailed in an action brought under the bill.

A person who violated the Act would be subject to a civil action regardless of whether a criminal action was brought under the Act. (Under the Act, a violation is a misdemeanor punishable by a fine of at least \$100 but not more than \$500 and/or imprisonment for up to 90 days; the court also must impose community service in the form of litter-gathering labor.)

Proposed MCL 752.903b

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Littering, especially large-scale dumping, degrades the environment and pollutes the State's water resources, presents safety hazards, and mars the beauty of Michigan's cities and countryside. It is a problem that affects both urban and rural areas. In the past, penalties for littering were perceived as being woefully inadequate. Now capped at \$500, fines still are generally ineffective deterrents because pecuniary rewards for this crime apparently can outweigh the threat of criminal penalties. The bill would minimize the incentive for would-be violators by exposing offenders to civil liability. In addition, statutory authorization to commence a civil action against a litterer would provide an opportunity for private landowners and

units of government to recover any costs they might incur in cleaning up after violators of the Act.

Opposing Argument

The bill could be an even more effective deterrent to dumping if it provided for the forfeiture of personal property used in the commission of littering, as did a two-bill package that passed the House of Representatives in the 1993-94 legislative session.

Response: Subjecting a person to forfeiture of personal property, such as a vehicle, for dumping a bag of garbage or an old appliance would be a fundamental inequity. The punishment would not necessarily fit the crime.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The costs to the courts would be determined by the number of new suits that would be brought. Data on the number of people caught littering would be necessary to show at least the potential number of lawsuits that could be filed. The data are currently not readily available.

Fiscal Analyst: L. Nacionales-Tafoya

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.