

HOUSE BILL NO. 4454

April 11, 2019, Introduced by Reps. Cynthia Johnson, Neeley, Kennedy, Hood, Ellison, Cambensy, Elder, Hope, Vaupel, O'Malley, Shannon, Tyrone Carter, Camilleri, Garrett, Byrd, Coleman, Haadsma, Robinson, Sneller, Cherry, Hertel, Yancey, Kuppa, LaGrand, Brixie, Hammoud, Peterson, Tate, Sowerby, Rabhi and Bolden and referred to the Committee on Judiciary.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 8905a (MCL 324.8905a), as amended by 2014 PA
549.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8905a. (1) A person who violates this part, if the amount
2 of the litter is less than 1 cubic foot in volume, is responsible
3 for a state civil infraction and is subject to a civil fine of not
4 more than \$800.00.



1 (2) A person who violates this part, if the amount of the
2 litter is 1 cubic foot or more but less than 3-1/2 cubic feet-yard
3 in volume, is responsible for a state civil infraction and is
4 subject to a civil fine of not more than \$1,500.00.

5 ~~(3) Except as provided in subsection (4), a person who~~
6 ~~violates this part, if the amount of the litter is 3 cubic feet or~~
7 ~~more in volume, is responsible for a state civil infraction and is~~
8 ~~subject to a civil fine of not more than \$2,500.00. A person found~~
9 ~~to have committed a violation described in this subsection in a~~
10 ~~subsequent proceeding is subject to a civil fine of not more than~~
11 ~~\$5,000.00.~~

12 (3) Except as provided in subsection (4) for a second or
13 subsequent violation described in this subsection, a person who
14 violates this part, if the amount of litter is more than 1/2 cubic
15 yard but less than 5 cubic yards, is guilty of a misdemeanor
16 punishable by a penal fine of not more than \$500.00.

17 (4) A person who commits a second violation of this part
18 described in subsection (3) is guilty of a misdemeanor punishable
19 by a penal fine of not more than \$1,000.00. For each subsequent
20 violation of this part described in subsection (3) that follows a
21 conviction for a second violation under this subsection, the penal
22 fine must be increased by \$500.00.

23 (5) Except as provided in subsection (6) for a second or
24 subsequent violation described in this subsection, a person who
25 violates this part, if the amount of litter is 5 cubic yards or
26 more, is guilty of a misdemeanor punishable by a penal fine of not
27 more than \$5,000.00.

28 (6) A person who commits a second violation of this part
29 described in subsection (5) is guilty of a misdemeanor punishable

1 by a penal fine of not more than \$10,000.00. For each subsequent
2 violation of this part described in subsection (5) that follows a
3 conviction for a second violation under this subsection, the penal
4 fine must be increased by \$5,000.00.

5 (7) Subsections (3) through (6) apply to a person and a
6 person's employer or employing agency if the violation of
7 subsections (3) to (6) is committed by a person at the direction of
8 or with the knowledge of the person's employer or employing agency.

9 (8) As part of its judgment of sentence upon the conviction of
10 a person under subsections (3) through (6), the court shall order a
11 person to remove the litter and remediate any damage caused to the
12 property as a result of the violation.

13 (9) If a prosecuting attorney intends to seek an enhanced
14 penal fine under subsection (4) or (6), the prosecuting attorney
15 shall include on the complaint and information a statement listing
16 the prior conviction or convictions. The existence of the
17 defendant's prior conviction or convictions must be determined by
18 the court, without a jury, at sentencing or at a separate hearing
19 for that purpose before sentencing. The existence of a prior
20 conviction may be established by any evidence relevant for that
21 purpose, including, but not limited to, 1 or more of the following:

22 (a) A copy of the judgment of conviction.

23 (b) A transcript of a prior trial, plea-taking, or sentencing.

24 (c) Information contained in a presentence report.

25 (d) The defendant's statement.

26 (10) In addition to, or in lieu of, a criminal conviction and
27 penal fine under subsections (3) through (6), an individual who
28 violates this part under subsections (3) through (6) may be liable
29 for a civil fine.

1 (11) A city or township attorney, a prosecuting attorney for
2 the county, or the attorney general may bring an action seeking a
3 civil fine for a violation of subsections (3) through (6) for the
4 costs to cleanup litter and remediate property damage. A civil fine
5 ordered under this subsection must not exceed actual clean-up and
6 remediation costs.

7 (12) A civil fine ordered under subsection (11) must be
8 directed to a local community group or municipal, county, or state
9 department that has or will perform the clean-up and remediation
10 required as a result of the violation of subsections (3) through
11 (6).

12 (13) ~~(4)~~—A person who violates this part, if the litter is
13 described in section 8901(a) (ii) to (v), is responsible for a state
14 civil infraction and is subject to a civil fine of not less than
15 \$500.00 or more than \$2,500.00. A person found to have committed a
16 violation described in this subsection in a subsequent proceeding
17 is subject to a civil fine of not less than \$1,000.00 or more than
18 \$5,000.00. However, the court shall not order the payment of a fine
19 unless the vehicle has been disposed of under section 252g of the
20 Michigan vehicle code, 1949 PA 300, MCL 257.252g, the abandoned
21 vessel has been disposed of under section 80130k, the ORV that is
22 considered abandoned has been disposed of under section 80130k as
23 made applicable in section 81151, or the snowmobile that is
24 considered abandoned has been disposed of under section 80130k as
25 made applicable in section 82161.

26 (14) ~~(5)~~—A default in the payment of a civil fine or costs
27 ordered under this part or an installment of the fine or costs may
28 be remedied by any means authorized under the revised judicature
29 act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.



1 **(15)** ~~(6)~~—This section does not apply to a violation of section
2 8903 or 8905.

3 Enacting section 1. This amendatory act takes effect 90 days
4 after the date it is enacted into law.

