

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

***** 324.8905a THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE
2024 REGULAR SESSION SINE DIE *****

324.8905a.amended Violation as state civil infraction; civil fine; misdemeanor; penal fine; applicability to employer or employing agency; enhanced penal fine; removal or reimbursement orders; default remedies; exception.

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

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

(3) A person who commits a first violation of this part, if the amount of litter is 3 cubic feet or more but less than 5 cubic yards, is guilty of a misdemeanor punishable by a penal fine of not more than \$2,500.00.

(4) A person who commits a second violation of this part described in subsection (3) is guilty of a misdemeanor punishable by a penal fine of not more than \$5,000.00. For each subsequent violation of this part described in subsection (3) that follows a conviction for a second violation under this subsection, the penal fine must be increased by \$2,500.00.

(5) A person who commits a first violation of this part, if the amount of litter is 5 cubic yards or more, is guilty of a misdemeanor punishable by a penal fine of not more than \$5,000.00.

(6) A person who commits a second violation of this part described in subsection (5) is guilty of a misdemeanor punishable by a penal fine of not more than \$10,000.00. For each subsequent violation of this part described in subsection (5) that follows a conviction for a second violation under this subsection, the penal fine must be increased by \$5,000.00.

(7) Subsections (3) to (6) apply to a person and a person's employer or employing agency if the violation of subsection (3), (4), (5), or (6) is committed by a person at the direction of or with the knowledge of the person's employer or employing agency.

(8) Except as otherwise provided in this subsection, as part of its judgment of sentence upon the conviction of a person under subsections (3) to (6), the court shall order a person to remove the litter and remediate any damage caused to the property as a result of the violation. If the violation was committed on railroad property, the court shall order reimbursement to the railroad for the costs of the removal of the litter and any necessary damage remediation.

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

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.

(10) In addition to, or in lieu of, a state civil infraction or a criminal conviction under subsections (1) to (6), the court may order an individual who violates this part under subsections (1) to (6) to reimburse a local community group, or village or township, or municipal, county, or state department that has or will perform the cleanup and remediation required as a result of the violation of subsections (1) to (6) for the expense incurred by that entity related to the violation under subsections (1) to (6).

(11) A city, village, or township attorney, a prosecuting attorney for the county, or the attorney general may bring an action seeking reimbursement for expenses incurred for the expense to clean up litter and remediate property damage as provided in subsection (10).

(12) Reimbursement ordered under subsection (10) or (11) must not exceed actual cleanup and remediation costs. The funds collected as part of an order for reimbursement under subsection (10) or (11) may be used in partnership by a local community group, or village or township, or municipal, county, or state department with the owner of the property for the cleanup and remediation required as a result of the violation of subsections (1) to (6).

(13) A person who violates this part, if the litter is described in section 8901(a)(ii) to (v), is responsible for

a state civil infraction and is subject to a civil fine of not less than \$500.00 or more than \$2,500.00. A person found to have committed a violation described in this subsection in a subsequent proceeding is subject to a civil fine of not less than \$1,000.00 or more than \$5,000.00. However, the court shall not order the payment of a fine unless the vehicle has been disposed of under section 252g of the Michigan vehicle code, 1949 PA 300, MCL 257.252g, the abandoned vessel has been disposed of under section 80130k, the ORV that is considered abandoned has been disposed of under section 80130k as made applicable in section 81151, or the snowmobile that is considered abandoned has been disposed of under section 80130k as made applicable in section 82161.

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

(15) This section does not apply to a violation of section 8903 or 8905.

(16) In addition to any penal or civil fine ordered for a violation of subsections (1) to (6) a property owner has a civil cause of action for damages for the reasonable and necessary costs of cleanup and remediation of the property.

History: Add. 1998, Act 15, Imd. Eff. Mar. 9, 1998;—Am. 2004, Act 494, Imd. Eff. Dec. 29, 2004;—Am. 2014, Act 549, Eff. Apr. 16, 2015;—Am. 2024, Act 6, Eff. (sine die).

Compiler's note: Former MCL 324.8905a, which pertained to violations as civil infractions, was repealed by Act 111 of 1995, Eff. Dec. 31, 1997.

Popular name: Act 451

Popular name: Littering

Popular name: NREPA