

**SUBSTITUTE FOR
HOUSE BILL NO. 4084**

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.

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

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

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

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

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

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

27 (7) Subsections (3) to (6) apply to a person and a person's
28 employer or employing agency if the violation of subsection (3),
29 (4), (5), or (6) is committed by a person at the direction of or

1 with the knowledge of the person's employer or employing agency.

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

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

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

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

1 related to the violation under subsections (1) to (6).

2 (11) A city or township attorney, a prosecuting attorney for
3 the county, or the attorney general may bring an action seeking
4 reimbursement for expenses incurred for the expense to clean up
5 litter and remediate property damage as provided in subsection
6 (10).

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

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

28 (14) ~~(5)~~—A default in the payment of a civil fine or costs
29 ordered under this part or an installment of the fine or costs may

1 be remedied by any means authorized under the revised judicature
2 act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

3 **(15)** ~~(6)~~—This section does not apply to a violation of section
4 8903 or 8905.

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

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