

HOUSE BILL NO. 4084

January 28, 2021, Introduced by Reps. Cynthia Johnson, Coleman, Hood, Aiyash, Tyrone Carter, Thanedar, Hammoud, Scott, Stone, Young, Kuppaa, Sowerby, Weiss, Cavanagh, Rabhi, Whitsett, Brabec and Jones.

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 cubic feet in
3 volume, is responsible for a state civil infraction and is subject
4 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) A person who commits a first violation of this part, if
13 the amount of litter is 3 cubic feet or more but less than 5 cubic
14 yards, is guilty of a misdemeanor punishable by a penal fine of not
15 more than \$2,500.00.

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

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

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

1 fine must be increased by \$5,000.00.

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

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

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), an
25 individual who violates this part under subsections (1) to (6) may
26 be liable for a civil fine as provided under subsection (11).

27 (11) A city or township attorney, a prosecuting attorney for
28 the county, or the attorney general may bring an action seeking a
29 civil fine for a violation of subsections (1) to (6) for the costs

1 to clean up litter and remediate property damage. A civil fine
2 ordered under this subsection must not exceed actual cleanup and
3 remediation costs.

4 (12) A civil fine ordered under subsection (11) must be
5 directed to a local community group or municipal, county, or state
6 department that has or will perform the cleanup and remediation
7 required as a result of the violation of subsections (1) to (6).

8 (13) ~~(4)~~—A person who violates this part, if the litter is
9 described in section 8901(a) (ii) to (v), is responsible for a state
10 civil infraction and is subject to a civil fine of not less than
11 \$500.00 or more than \$2,500.00. A person found to have committed a
12 violation described in this subsection in a subsequent proceeding
13 is subject to a civil fine of not less than \$1,000.00 or more than
14 \$5,000.00. However, the court shall not order the payment of a fine
15 unless the vehicle has been disposed of under section 252g of the
16 Michigan vehicle code, 1949 PA 300, MCL 257.252g, the abandoned
17 vessel has been disposed of under section 80130k, the ORV that is
18 considered abandoned has been disposed of under section 80130k as
19 made applicable in section 81151, or the snowmobile that is
20 considered abandoned has been disposed of under section 80130k as
21 made applicable in section 82161.

22 (14) ~~(5)~~—A default in the payment of a civil fine or costs
23 ordered under this part or an installment of the fine or costs may
24 be remedied by any means authorized under the revised judicature
25 act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

26 (15) ~~(6)~~—This section does not apply to a violation of section
27 8903 or 8905.

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