

**SUBSTITUTE FOR
HOUSE BILL NO. 4454**

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

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

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

19 (10) In addition to, or in lieu of, a state civil infraction
20 or a criminal conviction under subsections (1) to (6), an
21 individual who violates this part under subsections (1) to (6) may
22 be liable for a civil fine as provided under subsection (11).

23 (11) A city or township attorney, a prosecuting attorney for
24 the county, or the attorney general may bring an action seeking a
25 civil fine for a violation of subsections (1) to (6) for the costs
26 to clean up litter and remediate property damage. A civil fine
27 ordered under this subsection must not exceed actual cleanup and
28 remediation costs.

29 (12) A civil fine ordered under subsection (11) must be



1 directed to a local community group or municipal, county, or state
 2 department that has or will perform the cleanup and remediation
 3 required as a result of the violation of subsections (1) to (6).

4 (13) ~~(4)~~—A person who violates this part, if the litter is
 5 described in section 8901(a) (ii) to (v), is responsible for a state
 6 civil infraction and is subject to a civil fine of not less than
 7 \$500.00 or more than \$2,500.00. A person found to have committed a
 8 violation described in this subsection in a subsequent proceeding
 9 is subject to a civil fine of not less than \$1,000.00 or more than
 10 \$5,000.00. However, the court shall not order the payment of a fine
 11 unless the vehicle has been disposed of under section 252g of the
 12 Michigan vehicle code, 1949 PA 300, MCL 257.252g, the abandoned
 13 vessel has been disposed of under section 80130k, the ORV that is
 14 considered abandoned has been disposed of under section 80130k as
 15 made applicable in section 81151, or the snowmobile that is
 16 considered abandoned has been disposed of under section 80130k as
 17 made applicable in section 82161.

18 (14) ~~(5)~~—A default in the payment of a civil fine or costs
 19 ordered under this part or an installment of the fine or costs may
 20 be remedied by any means authorized under the revised judicature
 21 act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

22 (15) ~~(6)~~—This section does not apply to a violation of section
 23 8903 or 8905.

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

