

HOUSE BILL NO. 4321

March 22, 2023, Introduced by Rep. Tyrone Carter and referred to the Committee on Natural Resources, Environment, Tourism and Outdoor Recreation.

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

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

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

27 (10) In addition to, or in lieu of, a state civil infraction
28 or a criminal conviction under subsections (1) to (6), the court
29 may order an individual who violates this part under subsections

1 (1) to (6) to reimburse a local community group or municipal,
2 county, or state department that has or will perform the cleanup
3 and remediation required as a result of the violation of
4 subsections (1) to (6) for the expense incurred by that entity
5 related to the violation under subsections (1) to (6).

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

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

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

1 considered abandoned has been disposed of under section 80130k as
2 made applicable in section 82161.

3 **(14)** ~~(5)~~—A default in the payment of a civil fine or costs
4 ordered under this part or an installment of the fine or costs may
5 be remedied by any means authorized under the revised judicature
6 act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

7 **(15)** ~~(6)~~—This section does not apply to a violation of section
8 8903 or 8905.

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

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