

HOUSE BILL No. 4480

March 10, 2005, Introduced by Reps. Hunter and Tobocman and referred to the Committee on Natural Resources, Great Lakes, Land Use, and Environment.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 8905a and 8905c (MCL 324.8905a and 324.8905c), section 8905a as amended by 2004 PA 494 and section 8905c as added by 1998 PA 15.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

8 (4) **EXCEPT AS PROVIDED IN SUBSECTION (5) OR (6), A PERSON WHO**
9 **VIOLATES THIS PART WHERE THE AMOUNT OF THE LITTER IS 3 CUBIC YARDS**
10 **OR MORE BUT LESS THAN 10 CUBIC YARDS IN VOLUME IS GUILTY OF A**
11 **MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 6 MONTHS**
12 **OR A FINE OF NOT MORE THAN \$2,500.00, OR BOTH.**

13 (5) **EXCEPT AS PROVIDED IN SUBSECTION (6), A PERSON WHO**
14 **VIOLATES THIS PART WHERE THE AMOUNT OF THE LITTER IS 10 OR MORE**
15 **CUBIC YARDS IN VOLUME OR WHO IS CONVICTED OF A SECOND OR SUBSEQUENT**
16 **VIOLATION UNDER SUBSECTION (4) IS GUILTY OF A MISDEMEANOR**
17 **PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF**
18 **NOT MORE THAN \$5,000.00, OR BOTH.**

19 (6) ~~(4)~~ A person who violates this part where the litter
20 consists of an abandoned vehicle is responsible for a state civil
21 infraction and is subject to a civil fine of not less than \$500.00
22 or more than \$2,500.00. A person found to have committed a
23 violation described in this subsection in a subsequent proceeding
24 is subject to a civil fine of not less than \$1,000.00 or more than
25 \$5,000.00. However, the court shall not order the payment of a fine
26 unless the vehicle has been disposed of under section 252g of the
27 Michigan vehicle code, 1949 PA 300, MCL 257.252g.

1 (7) ~~—(5)—~~ A default in the payment of a civil fine or costs
2 ordered under this part or an installment of the fine or costs may
3 be remedied by any means authorized under the revised judicature
4 act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

5 (8) ~~—(6)—~~ This section does not apply to a violation of
6 section 8903 or 8905.

7 Sec. 8905c. (1) A peace officer may seize and impound a
8 vehicle operated in the commission of a violation of this part. ~~—if~~
9 ~~the operator of the vehicle has previously been convicted for a~~
10 ~~violation of this part.—~~ Upon impoundment, the vehicle is subject
11 to a lien, subordinate to a prior lien of record, in the amount of
12 any fine, costs, and damages that the defendant may be ordered to
13 pay under this part. The defendant or a person with an ownership
14 interest in the vehicle may post with the court a cash or surety
15 bond in the amount of \$750.00. If such a bond is posted, the
16 vehicle shall be released from impoundment. The vehicle shall also
17 be released, and the lien shall be discharged, upon a judicial
18 determination that the defendant is not responsible for the
19 violation of this part or upon payment of the fine, costs, and
20 damages. Additionally, if the defendant is determined to be not
21 responsible for the violation of this part, the court shall assess
22 against the governmental entity bringing the action costs, payable
23 to the defendant, for any damages that the defendant has sustained
24 due to the impoundment of the vehicle.

25 (2) If the court determines that the defendant is responsible
26 for the violation of this part and the defendant defaults in the
27 payment of any fine, costs, or damages, or any installment, as

1 ordered pursuant to this part, any bond posted under subsection (1)
2 shall be forfeited and applied to the fine, costs, damages, or
3 installment. The court shall certify any remaining unpaid amount to
4 the attorney for the governmental entity bringing the action. The
5 attorney for the governmental entity may enforce the lien by a
6 foreclosure sale. The foreclosure sale shall be conducted in the
7 manner provided and subject to the same rights as apply in the case
8 of execution sales under sections 6031, 6032, 6041, 6042, and 6044
9 to 6047 of the revised judicature act of 1961, 1961 PA 236, MCL
10 600.6031, 600.6032, 600.6041, 600.6042, and 600.6044 to 600.6047.

11 (3) Not less than 21 days before the foreclosure sale under
12 subsection (2), the attorney for the governmental entity bringing
13 the action shall by certified mail send written notice of the time
14 and place of the foreclosure sale to each person with a known
15 ownership interest in or lien of record on the vehicle. In
16 addition, not less than 10 days before the foreclosure sale, the
17 attorney shall twice publish notice of the time and place of the
18 foreclosure sale in a newspaper of general circulation in the
19 county in which the vehicle was seized. The proceeds of the
20 foreclosure sale shall be distributed in the following order of
21 priority:

22 (a) To discharge any lien on the vehicle that was recorded
23 prior to the creation of the lien under subsection (1).

24 (b) To the clerk of the court for the payment of the fine,
25 costs, and damages, that the defendant was ordered to pay.

26 (c) To discharge any lien on the vehicle that was recorded
27 after the creation of the lien under subsection (1).

1 (d) To the owner of the vehicle.