

# HOUSE BILL No. 4762

May 10, 2005, Introduced by Reps. McDowell, Kehrl, Miller, Kathleen Law, Alma Smith, Tobocman, Angerer, Clack, Zelenko, Condino, Meisner, Brown, Spade, Donigan, Anderson, Byrum, Lipsey, Murphy, Ball and Kolb 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 11546 and 11549 (MCL 324.11546 and 324.11549),  
section 11546 as amended by 2004 PA 41.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 11546. (1) The department or a health officer may request  
2 that the attorney general bring an action in the name of the people  
3 of the state, or a municipality or county may bring an action based  
4 on facts arising within its boundaries, for any appropriate relief,  
5 including injunctive relief, for a violation of this part or rules  
6 promulgated under this part.

7           (2) In addition to any other relief provided by this section,  
8 the court may impose on any person who violates any provision of

1 this part or rules promulgated under this part or ~~who fails to~~  
2 ~~comply with~~ any permit, license, or final order issued pursuant to  
3 this part, **EXCEPT A VIOLATION DESCRIBED IN SUBSECTION (4) OR (5)**, a  
4 civil fine as follows:

5 (a) Except as provided in subdivision (b), a civil fine of not  
6 more than \$10,000.00 for each day of violation.

7 (b) For a second or subsequent violation, a civil fine of not  
8 more than \$25,000.00 for each day of violation.

9 (3) In addition to any other relief provided by this section,  
10 the court may order a person violating this part or the rules  
11 promulgated under this part either to restore or to pay to the  
12 state an amount equal to the cost of restoring the natural  
13 resources of this state affected by the violation to their original  
14 condition before the violation, and to pay to the state the costs  
15 of surveillance and enforcement incurred by the state as a result  
16 of the violation.

17 (4) A PERSON WHO DOES ANY OF THE FOLLOWING IS RESPONSIBLE FOR  
18 A STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE OF  
19 NOT MORE THAN \$5,000.00 OR, FOR A SECOND OR SUBSEQUENT VIOLATION OF  
20 THE SAME STATUTORY PROVISION OR RULE PROMULGATED THEREUNDER, NOT  
21 MORE THAN \$10,000.00:

22 (A) OPERATES A SOLID WASTE TRANSPORT UNIT IN VIOLATION OF  
23 SECTION 11527 OR 11528 OR RELATED RULES PROMULGATED UNDER THIS  
24 PART.

25 (B) DELIVERS WASTE FOR DISPOSAL IN VIOLATION OF SECTION  
26 11514(2)(A) OR (3).

27 (C) PERMITS THE DISPOSAL OF WASTE IN VIOLATION OF SECTION

1 11514(2)(A) OR (D) OR (3)(A), (B), (E), (F), OR (H).

2 (D) TRANSPORTS OR DISPOSES OF WASTE IN VIOLATION OF AN ORDER  
3 ISSUED BY THE DIRECTOR UNDER SECTION 11526C.

4 (E) CONDUCTS OPEN BURNING IN VIOLATION OF THIS PART OR RULES  
5 PROMULGATED UNDER THIS PART.

6 (F) DISPOSES OF SOLID WASTE IN AN OPEN DUMP, AS DEFINED IN R  
7 299.4104 OF THE MICHIGAN ADMINISTRATIVE CODE, IN VIOLATION OF THIS  
8 PART OR RELATED RULES PROMULGATED UNDER THIS PART.

9 (5) A PERSON WHO DELIVERS WASTE FOR DISPOSAL OR WHO PERMITS  
10 THE DISPOSAL OF WASTE IN VIOLATION OF SECTION 11514(2)(B) OR (C) IS  
11 RESPONSIBLE FOR A STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY  
12 A CIVIL FINE OF NOT MORE THAN \$100.00 OR, FOR A SECOND OR  
13 SUBSEQUENT VIOLATION, NOT MORE THAN \$500.00.

14 (6) ~~(4)~~ This part does not preclude any person from  
15 commencing a civil action based on facts that may also constitute a  
16 violation of this part or the rules promulgated under this part.

17 Sec. 11549. ~~A~~ **EXCEPT FOR VIOLATIONS DESCRIBED IN SECTION**  
18 **11546(4) AND (5),** A person who violates this part, a rule  
19 promulgated under this part, or a condition of a permit, license,  
20 or final order issued pursuant to this part is guilty of a  
21 misdemeanor punishable by a fine of not more than \$1,000.00 for  
22 each violation and costs of prosecution and, if in default of  
23 payment of fine and costs, imprisonment for not more than 6 months.  
24 Each day upon which a violation occurs is a separate offense.