



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4325 (as passed by the House)
Sponsor: Representative Helena Scott
House Committee: Natural Resources, Environment, Tourism and Outdoor Recreation
Senate Committee: Energy and Environment

Date Completed: 1-23-24

CONTENT

The bill would amend Part 89 (Littering) of the Natural Resources and Environmental Protection Act to prescribe misdemeanor penalties for the unlawful dumping of litter, punishable by the following penal fines:

- **For a first violation, if the amount of litter were three cubic feet or more but less than five cubic yards, up to \$2,500 and, for each subsequent violation following a conviction, an additional \$2,500 per violation.**
- **For a first violation, if the amount of litter were five cubic yards or more, up to \$5,000 and, for each subsequent violation following a conviction, an additional \$5,000 per violation.**

The bill would take effect 90 days after its enactment.

Generally, Part 89 prohibits a person from knowingly littering on public or private property or water other than property designated and set aside for the disposal of litter. It also requires a person who removes a vehicle that is wrecked or damaged in an accident on a highway, road, or street to remove all glass and other injurious substances dropped on the highway, road, or street because of the accident.

("Litter" means any of the following: 1) rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris, or other foreign substances; 2) a vehicle that is considered abandoned under the Michigan Vehicle Code;¹ 3) an abandoned vessel;² 4) an ORV that is considered abandoned;³ and 5) a snowmobile that is considered abandoned.⁴)

Currently, the Act classifies a violation of Part 89 as a State civil infraction and prescribes the following civil fines:

- If the amount of the litter is less than one cubic foot in volume, \$800.
- If the amount of the litter is between one and three cubic feet in volume, \$1,500.

The bill would delete a current civil fine of \$2,500 for an amount of litter that is three cubic feet or more in volume and a civil fine of up to \$5,000 for another violation of such. Instead, the bill would classify the following as *misdemeanors* and prescribes the following penal fines:

¹ For more information, see MCL 257.252a.

² See MCL 324.80130f.

³ See MCL 324.81151.

⁴ See MCL 324.82161.

- For a first violation, if the amount of litter were three cubic feet or more but less than five cubic yards, a penal fine of up to \$2,500 and, for a second violation, up to \$5,000; for each subsequent violation that followed a conviction of a second violation, the bill would require the penal fine to be increased by \$2,500.
- For a first violation, if the amount of litter were five cubic yards or more, a penal fine of up to \$5,000 and, for a second violation, up to \$10,000; for each subsequent violation that followed a conviction of a second violation, the bill would require the penal fine to be increased by \$5,000.

These misdemeanors and penal fines would apply to a person *and* a person's employer or employing agency if the violation were committed by a person at the direction of or with the knowledge of the person's employer or employing agency.

As part of its judgment of sentence upon the conviction of a person for these violations, the bill would require the court to order a person to remove the litter and remediate any damage caused to the property because of the violation. If the violation were committed on railroad property, the court would have to order reimbursement to the railroad for the costs of the removal of the litter and any necessary damage remediation.

If a prosecuting attorney intended to seek an enhanced penal fine for a subsequent violation, the prosecuting attorney would have to include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions would have to be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction could be established by any evidence relevant for that purpose, including the following:

- A copy of the judgment of conviction.
- A transcript of a prior trial, plea-taking, or sentencing.
- Information contained in a presentence report.
- The defendant's statement.

In addition to, or in lieu of, a State civil infraction or a criminal conviction, the bill would allow a court to order an individual to reimburse a local community group, a village or township, or a municipal, county, or State department that had or would perform the cleanup and remediation required for the expense incurred by that entity related to the violation.

A city, village, or township attorney, a prosecuting attorney for the county, or the Attorney General could bring an action seeking reimbursement for expenses incurred for the expense to clean up litter and remediate property damage; however, reimbursement ordered could not exceed actual cleanup and remediation costs. The funds collected as part of an order for reimbursement could be used in partnership by a local community group, a village or township, or a municipal, county, or State department with the owner of the property for the cleanup and remediation required because of a violation. In addition to any penal or civil fine ordered for a violation, a property owner would have a civil cause of action for damages for the reasonable and necessary costs of cleanup and remediation of the property.

MCL 324.8905a

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

The bill is similar to House Bill 4454 of the 2019-2020 Legislative Session and House Bill 4084 of the 2021-2022 Legislative Session. House Bill 4454 was reported from the Senate

Committee on Environmental Quality but received no further action. House Bill 4084 was referred to that committee but received no further action.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill would have an indeterminate positive fiscal impact on the State dependent upon the number of violations resulting in fines. The bill would introduce civil fines ranging from \$800 to \$5,000, not to exceed actual costs of cleanup and remediation; and penal fines ranging from \$2,500 to \$5,000 and increasing the maximum penalty by \$5,000 for subsequent violations. The revenue collected from these fines would offset costs of cleanup and remediation of the violation(s) and \$10 of each civil fine would contribute to the State's Justice System Fund. This Fund supports justice-related activities across State government in the Departments of Corrections, Health and Human Services, State Police, and Treasury. The Fund also supports justice-related issues in the Legislative Retirement System and the Judiciary.

The bill could have a positive fiscal impact on local units of government. The bill would impose a misdemeanor that could result in sanctions and penal fines. The court also could levy in addition to, or in lieu of, a civil fine. Revenue collected from civil fines is used to support local libraries. The amount of revenue for local libraries is indeterminate and dependent on the actual number of violations.

Fiscal Analyst: Bobby Canell
Joe Carrasco, Jr.
Jonah Houtz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.