



HOUSE BILL No. 5177

November 2, 1993, Introduced by Rep. Yokich and referred to the Committee on Tourism and Recreation.

A bill to amend section 2 of chapter IX of Act No. 215 of the Public Acts of 1895, entitled as amended

"An act to provide for the incorporation of cities of the fourth class; to provide for the vacation of the incorporation thereof; to define the powers and duties of such cities and the powers and duties of the municipal finance commission or its successor agency and of the department of treasury with regard thereto; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by cities; to define the application of this act and provide for its amendment by cities subject thereto, and to validate such prior amendments and certain prior actions taken and bonds issued by such cities,"

being section 89.2 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2 of chapter IX of Act No. 215 of the
2 Public Acts of 1895, being section 89.2 of the Michigan Compiled
3 Laws, is amended to read as follows:

CHAPTER IX

1
2 Sec. 2. (1) ~~When, by the provisions of this act~~ FOR THE
3 VIOLATION OF A CITY ORDINANCE, the council of ~~any~~ A city ~~has~~
4 ~~authority to pass ordinances for any purpose they~~ may prescribe
5 ~~finest, penalties and forfeitures~~ A FINE, PENALTY, OR FORFEITURE
6 not exceeding ~~500 dollars~~ (\$500.00, unless a greater ~~fine or~~
7 ~~penalty is herein~~ AMOUNT IS authorized ~~)~~ IN THIS ACT, or
8 imprisonment not exceeding ~~6 months~~ 180 DAYS, or both, in the
9 discretion of the court, together with the costs of prosecution
10 for each violation of ~~any of said ordinances~~ THE ORDINANCE;
11 ~~and~~ may provide that the offender, on failing to pay ~~any such~~
12 A fine, penalty, or forfeiture, ~~and~~ OR the costs of prosecu-
13 tion, may be imprisoned for ~~any~~ A term not exceeding ~~6 months~~
14 180 DAYS unless payment ~~thereof be sooner~~ IS made BEFORE THE
15 EXPIRATION OF THE TERM; and may direct ~~such~~ THE imprisonment to
16 be ~~in the city prison, or~~ in the county jail of the county
17 within which the city is located ~~,~~ or in ~~such other~~ A prison
18 or OTHER place of confinement in ~~the~~ THIS state as provided by
19 law. ~~Such~~ A fine, penalty, forfeiture, ~~and~~ OR TERM OF
20 imprisonment ~~,~~ for the violation of ~~any~~ AN ordinance ~~,~~
21 shall be prescribed ~~therein~~ IN THE ORDINANCE.

22 (2) IF THE USE OF A VEHICLE ON A RECREATIONAL TRAIL OR OTHER
23 PARK AREA WHERE USE OF THE VEHICLE IS PROHIBITED IS AN ELEMENT OF
24 THE VIOLATION OF THE ORDINANCE, ALL OF THE FOLLOWING APPLY:

25 (A) IN ADDITION TO THE OTHER SANCTIONS PROVIDED FOR IN THIS
26 SUBDIVISION, A COURT OF COMPETENT JURISDICTION MAY ORDER A PERSON
27 TO RESTORE, AS NEARLY AS POSSIBLE, ANY LAND, WATER, STREAM BANK,

1 STREAMBED, OR OTHER NATURAL OR GEOGRAPHIC FORMATION DAMAGED BY
2 THE VIOLATION OF THE ORDINANCE TO THE CONDITION IT WAS IN BEFORE
3 THE VIOLATION OCCURRED.

4 (B) A PEACE OFFICER MAY IMPOUND THE VEHICLE AND ANY PERSONAL
5 PROPERTY ON OR IN THE VEHICLE. WITHIN 7 DAYS AFTER THE PROPERTY
6 IS IMPOUNDED, THE PROSECUTING ATTORNEY FOR THE CITY SHALL GIVE
7 NOTICE OF THE IMPOUNDMENT IN THE MANNER AND TO THE PERSONS
8 REQUIRED FOR NOTICES OF SEIZURE AND INTENT TO FORFEIT UNDER SEC-
9 TION 4704 OF THE REVISED JUDICATURE ACT OF 1961, ACT NO. 236 OF
10 THE PUBLIC ACTS OF 1961, BEING SECTION 600.4704 OF THE MICHIGAN
11 COMPILED LAWS.

12 (C) A COURT OF COMPETENT JURISDICTION MAY ORDER THE
13 IMPOUNDED PROPERTY RETURNED TO THE OWNER OR, IN ADDITION TO THE
14 OTHER SANCTIONS PROVIDED FOR IN THIS SUBSECTION AND UPON RECOM-
15 MENDATION OF THE PROSECUTING ATTORNEY FOR THE CITY, FORFEITED TO
16 THE CITY. A PERSON WHO DID NOT HAVE PRIOR KNOWLEDGE OF, OR CON-
17 SENT TO THE COMMISSION OF, THE VIOLATION AND WHO HAS AN OWNERSHIP
18 OR SECURITY INTEREST IN THE VEHICLE OR OTHER PERSONAL PROPERTY
19 MAY MOVE THE COURT TO RETURN THE PROPERTY. THE COURT SHALL HEAR
20 THE MOTION WITHIN 30 DAYS AFTER THE MOTION IS FILED. AT THE
21 HEARING ON THE MOTION, THE PROSECUTING ATTORNEY SHALL ESTABLISH
22 PROBABLE CAUSE TO BELIEVE THAT THE PERSON FILING THE MOTION HAD
23 PRIOR KNOWLEDGE OF, OR CONSENTED TO THE COMMISSION OF, THE
24 VIOLATION. IF THE PROSECUTING ATTORNEY FAILS TO SUSTAIN THIS
25 BURDEN OF PROOF, THE COURT SHALL ORDER THE RETURN OF THE
26 PROPERTY. IF PROPERTY IS FORFEITED, IT IS SUBJECT TO THE
27 INTEREST OF ANY SECURED PARTY OF RECORD AND THE PROCEEDS OF THE

1 PROPERTY SHALL BE DISPOSED OF IN THE FOLLOWING ORDER OF
2 PRIORITY:

3 (i) TO PAY ANY OUTSTANDING SECURITY INTEREST OF A SECURED
4 PARTY WHO DID NOT HAVE PRIOR KNOWLEDGE OF, OR CONSENT TO, THE
5 COMMISSION OF THE VIOLATION.

6 (ii) TO SATISFY ANY ORDER OF RESTITUTION IN THE PROSECUTION
7 FOR THE VIOLATION.

8 (iii) IF THE CITY AND ANY OTHER GOVERNMENTAL ENTITY EMPLOY-
9 ING PEACE OFFICERS WHO ENFORCE ORDINANCES OF THE CITY ON THE REC-
10 REATIONAL TRAIL OR OTHER PARK AREA HAVE ENTERED INTO AN AGREEMENT
11 PERTAINING TO THE DISTRIBUTION OF THE PROCEEDS OF THE PROPERTY,
12 TO BE DISTRIBUTED BY THE CITY PURSUANT TO THAT AGREEMENT.

13 (iv) IF THERE IS NO AGREEMENT AS DESCRIBED IN
14 SUBPARAGRAPH (iii), TO BE DEPOSITED IN THE CITY TREASURY.