



PENALTIES FOR LITTERING

House Bill 4008
Sponsor: Rep. David Gubow
Committee: Conservation,
Environment, and Great Lakes

Complete to 3-13-95

A SUMMARY OF HOUSE BILL 4008 AS INTRODUCED 1-11-95

Under the litter law, Public Act 106 of 1963, the offense of littering is a misdemeanor, subject to a \$100 to \$500 fine. In addition, the court may impose community service in the form of litter-gathering labor. House Bill 4008 would amend the act to impose additional penalties and to provide for civil remedies.

Penalties. Under the bill, the following offenses would be considered civil infractions, and penalties would be imposed in proportion to the volume of litter, as follows:

*Litter of less than one cubic foot in volume would be subject to a civil fine of up to \$800.

*Litter of one to three cubic feet in volume would be subject to a civil fine of up to \$1,500.

*Litter of more than three cubic feet in volume would be subject to a civil fine of up to \$2,500. A civil fine of up to \$5,000 would be imposed for a violation of this provision in a subsequent proceeding.

A default in the payment or installment payment of the civil fines or costs imposed under these provisions would be subject to remedies provided under the Revised Judicature Act. The court could, in addition, require the defendant to pay either or both of the following costs:

a) The cost of removing all litter which is the subject of the violation, and the cost of damages to any land, water, wildlife, vegetation, or other natural resource or facility damaged by the violation.

b) The reasonable expense of impounding a vehicle used in littering.

Money collected under this provision would be distributed to the governmental entity that brought an enforcement action or impounded a vehicle.

Impoundment of Vehicles. Under the bill, a vehicle that was involved in the commission of prohibited activities could be seized and impounded by a peace officer. The impounded vehicle would be subject to a lien, subordinate to a prior lien of record, in the amount of any fine, costs, and damages that the defendant could be ordered to pay. The

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vehicle would be released from impoundment, however, if the defendant or a person with an ownership interest in the vehicle posted a \$750 cash or surety bond. The vehicle would also be released -- and the lien discharged -- upon a judicial determination that the defendant was not responsible for the violation, or upon payment of the fine, costs, and damages. If a court determined that the defendant was responsible for a violation of the act, and the defendant defaulted in the payment, then bond would be forfeited and applied to the fine, costs, damages, or installment. Any remaining unpaid amount would be certified by the court to the attorney for the governmental entity that brought the action.

Foreclosure Sale. The attorney for the governmental entity could also enforce the lien by a foreclosure sale. The sale would be conducted in the same manner, and would be subject to the same prerogatives, as an execution sale that is implemented to enforce a money judgement. The attorney would be required to send written notice of the time and place of the foreclosure sale to each person with a known ownership interest in or lien of record on the vehicle, at least 21 days before the date of the sale. In addition, 10 days before the sale the attorney would be required to publish notice of the sale in a newspaper of general circulation in the county in which the vehicle was seized. The proceeds of the foreclosure sale would be distributed in the following order of priority:

- * To discharge a lien on the vehicle that had been recorded prior to the creation of the lien imposed under the provisions of the bill.

- * To the clerk of the court to pay the fine, costs, and damages that the defendant had been ordered to pay under the provisions of the bill.

- * To discharge any lien that had been recorded after the creation of the first lien on the vehicle, imposed under the provisions of the bill.

- * To the owner of the vehicle.

MCL 752.903 et. al.