



HOUSE BILL No. 4008

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January 11, 1995, Introduced by Rep. Anthony and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend section 3 of Act No. 106 of the Public Acts of 1963, entitled

"An act to define, control and prohibit the littering of public and private property and waters; to prescribe penalties for violation of this act; and to repeal certain acts and parts of acts,"

as amended by Act No. 297 of the Public Acts of 1993, being section 752.903 of the Michigan Compiled Laws; and to add sections 3b, 3c, and 3d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 3 of Act No. 106 of the Public Acts of
2 1963, as amended by Act No. 297 of the Public Acts of 1993, being
3 section 752.903 of the Michigan Compiled Laws, is amended and
4 sections 3b, 3c, and 3d are added to read as follows:

5 Sec. 3. (1) A person who violates this act is guilty of a
6 misdemeanor and shall be fined not less than \$100.00 or more than

1 \$500.00, and the costs of prosecution, or imprisonment for not
2 more than 90 days, or both. Additionally, the court shall
3 impose, under the supervision of the court, community service in
4 the form of litter-gathering labor, including, but not limited
5 to, litter connected with the particular violation.

6 (2) Except as provided in subsection (5) involving litter
7 from a leased vehicle or leased vessel, in a proceeding for a
8 violation of this act involving litter from a motor vehicle or
9 vessel, proof that the particular vehicle or vessel described in
10 the citation, complaint, or warrant was used in the violation,
11 together with proof that the defendant named in the citation,
12 complaint, or warrant was the registered owner of the vehicle or
13 vessel at the time of the violation, constitutes ~~in evidence a~~
14 AN EVIDENTIARY presumption that the registered owner of the vehi-
15 cle or vessel was the driver of the vehicle or vessel at the time
16 of the violation.

17 (3) The driver of a vehicle or vessel is presumed to be
18 responsible for litter which is thrown, ~~dropped,~~ dumped, depos-
19 ited, placed, or left from the vehicle or vessel on public or
20 private property, or waters defined in section 1.

21 (4) For the purpose of this act:

22 (a) "Vehicle" means every motor vehicle registered under the
23 Michigan vehicle code, Act No. 300 of the Public Acts of 1949,
24 ~~as amended,~~ being sections 257.1 to 257.923 of the Michigan
25 Compiled Laws.

26 (b) "Vessel" means a vessel registered under the marine
27 safety act, Act No. 303 of the Public Acts of 1967, ~~as amended,~~

1 being sections 281.1001 to 281.1199 of the Michigan Compiled
2 Laws.

3 (5) In a proceeding for a violation of this act involving
4 litter from a leased motor vehicle or leased vessel, proof that
5 the particular vehicle or vessel described in the citation, com-
6 plaint, or warrant was used in the violation, together with proof
7 that the defendant named in the citation, complaint, or warrant
8 was the lessee of the vehicle or vessel at the time of the viola-
9 tion, constitutes ~~in evidence a~~ AN EVIDENTIARY presumption that
10 the lessee of the vehicle or vessel was the driver of the vehicle
11 or vessel at the time of the violation.

12 SEC. 3B. (1) A PERSON WHO VIOLATES THIS ACT WHERE THE
13 AMOUNT OF THE LITTER IS LESS THAN 1 CUBIC FOOT IN VOLUME IS
14 RESPONSIBLE FOR A STATE CIVIL INFRACTION AND IS SUBJECT TO A
15 CIVIL FINE OF NOT MORE THAN \$800.00.

16 (2) A PERSON WHO VIOLATES THIS ACT WHERE THE AMOUNT OF THE
17 LITTER IS 1 CUBIC FOOT OR MORE BUT LESS THAN 3 CUBIC FEET IN
18 VOLUME IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AND IS SUBJECT
19 TO A CIVIL FINE OF NOT MORE THAN \$1,500.00.

20 (3) A PERSON WHO VIOLATES THIS ACT WHERE THE AMOUNT OF THE
21 LITTER IS 3 CUBIC FEET OR MORE IN VOLUME IS RESPONSIBLE FOR A
22 STATE CIVIL INFRACTION AND IS SUBJECT TO A CIVIL FINE OF NOT MORE
23 THAN \$2,500.00. A PERSON FOUND TO HAVE VIOLATED THIS SUBSECTION
24 IN A SUBSEQUENT PROCEEDING IS SUBJECT TO A CIVIL FINE OF NOT MORE
25 THAN \$5,000.00.

26 (4) A DEFAULT IN THE PAYMENT OF A CIVIL FINE OR COSTS
27 ORDERED UNDER THIS ACT OR AN INSTALLMENT OF THE FINE OR COSTS MAY

1 BE REMEDIED BY ANY MEANS AUTHORIZED UNDER THE REVISED JUDICATURE
2 ACT OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF 1961, BEING SEC-
3 TIONS 600.101 TO 600.9947 OF THE MICHIGAN COMPILED LAWS.

4 SEC. 3C. IN ADDITION TO ANY OTHER PENALTY OR SANCTION PRO-
5 VIDED IN THIS ACT FOR A CRIMINAL OR CIVIL ACTION BROUGHT UNDER
6 THIS ACT, THE COURT MAY REQUIRE THE DEFENDANT TO PAY EITHER OR
7 BOTH OF THE FOLLOWING:

8 (A) THE COST OF REMOVING ALL LITTER WHICH IS THE SUBJECT OF
9 THE VIOLATION AND THE COST OF DAMAGES TO ANY LAND, WATER, WILD-
10 LIFE, VEGETATION, OR OTHER NATURAL RESOURCE OR TO ANY FACILITY
11 DAMAGED BY THE VIOLATION OF THIS ACT. MONEY COLLECTED UNDER THIS
12 SUBDIVISION SHALL BE DISTRIBUTED TO THE GOVERNMENTAL ENTITY
13 BRINGING THE ENFORCEMENT ACTION.

14 (B) THE REASONABLE EXPENSE OF IMPOUNDMENT UNDER SECTION 3D.
15 MONEY COLLECTED UNDER THIS SUBDIVISION SHALL BE DISTRIBUTED TO
16 THE GOVERNMENTAL ENTITY THAT IMPOUNDED THE VEHICLE INVOLVED IN
17 THE VIOLATION OF THIS ACT.

18 SEC. 3D. (1) A PEACE OFFICER MAY SEIZE AND IMPOUND A VEHI-
19 CLE OPERATED IN THE COMMISSION OF A VIOLATION OF THIS ACT. UPON
20 IMPOUNDMENT, THE VEHICLE IS SUBJECT TO A LIEN, SUBORDINATE TO A
21 PRIOR LIEN OF RECORD, IN THE AMOUNT OF ANY FINE, COSTS, AND DAM-
22 AGES THAT THE DEFENDANT MAY BE ORDERED TO PAY UNDER THIS ACT.
23 THE DEFENDANT OR A PERSON WITH AN OWNERSHIP INTEREST IN THE VEHI-
24 CLE MAY POST WITH THE COURT A CASH OR SURETY BOND IN THE AMOUNT
25 OF \$750.00. IF SUCH A BOND IS POSTED, THE VEHICLE SHALL BE
26 RELEASED FROM IMPOUNDMENT. THE VEHICLE SHALL ALSO BE RELEASED,
27 AND THE LIEN SHALL BE DISCHARGED, UPON A JUDICIAL DETERMINATION

1 THAT THE DEFENDANT IS NOT RESPONSIBLE FOR THE VIOLATION OF THIS
2 ACT OR UPON PAYMENT OF THE FINE, COSTS, AND DAMAGES.

3 (2) IF THE COURT DETERMINES THAT THE DEFENDANT IS RESPONSIB-
4 BLE FOR THE VIOLATION OF THIS ACT AND THE DEFENDANT DEFAULTS IN
5 THE PAYMENT OF ANY FINE, COSTS, OR DAMAGES, OR ANY INSTALLMENT,
6 AS ORDERED PURSUANT TO THIS ACT, ANY BOND POSTED UNDER SUBSECTION
7 (1) SHALL BE FORFEITED AND APPLIED TO THE FINE, COSTS, DAMAGES,
8 OR INSTALLMENT. THE COURT SHALL CERTIFY ANY REMAINING UNPAID
9 AMOUNT TO THE ATTORNEY FOR THE GOVERNMENTAL ENTITY BRINGING THE
10 ACTION. THE ATTORNEY FOR THE GOVERNMENTAL ENTITY MAY ENFORCE THE
11 LIEN BY A FORECLOSURE SALE. THE FORECLOSURE SALE SHALL BE CON-
12 DUCTED IN THE MANNER PROVIDED AND SUBJECT TO THE SAME RIGHTS AS
13 APPLY IN THE CASE OF EXECUTION SALES UNDER SECTIONS 6031, 6032,
14 6041, 6042, AND 6044 TO 6047 OF THE REVISED JUDICATURE ACT OF
15 1961, ACT NO. 236 OF THE PUBLIC ACTS OF 1961, BEING SECTIONS
16 600.6031, 600.6032, 600.6041, 600.6042, AND 600.6044 TO 600.6047
17 OF THE MICHIGAN COMPILED LAWS.

18 (3) NOT LESS THAN 21 DAYS BEFORE THE FORECLOSURE SALE UNDER
19 SUBSECTION (2), THE ATTORNEY FOR THE GOVERNMENTAL ENTITY BRINGING
20 THE ACTION SHALL BY CERTIFIED MAIL SEND WRITTEN NOTICE OF THE
21 TIME AND PLACE OF THE FORECLOSURE SALE TO EACH PERSON WITH A
22 KNOWN OWNERSHIP INTEREST IN OR LIEN OF RECORD ON THE VEHICLE. IN
23 ADDITION, NOT LESS THAN 10 DAYS BEFORE THE FORECLOSURE SALE, THE
24 ATTORNEY SHALL TWICE PUBLISH NOTICE OF THE TIME AND PLACE OF THE
25 FORECLOSURE SALE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE
26 COUNTY IN WHICH THE VEHICLE WAS SEIZED. THE PROCEEDS OF THE

1 FORECLOSURE SALE SHALL BE DISTRIBUTED IN THE FOLLOWING ORDER OF
2 PRIORITY:

3 (A) TO DISCHARGE ANY LIEN ON THE VEHICLE THAT WAS RECORDED
4 PRIOR TO THE CREATION OF THE LIEN UNDER SUBSECTION (1).

5 (B) TO THE CLERK OF THE COURT FOR THE PAYMENT OF THE FINE,
6 COSTS, AND DAMAGES, THAT THE DEFENDANT WAS ORDERED TO PAY.

7 (C) TO DISCHARGE ANY LIEN ON THE VEHICLE THAT WAS RECORDED
8 AFTER THE CREATION OF THE LIEN UNDER SUBSECTION (1).

9 (D) TO THE OWNER OF THE VEHICLE.