



Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

REPEAL SUNSET ON LITTER PENALTIES

House Bill 4382 as introduced First Analysis (5-21-97)

Sponsor: Rep. David Anthony
First Committee: Conservation,
Environment and Recreation
Second Committee: Forestry and
Mineral Rights

THE APPARENT PROBLEM:

Public Act 111 of 1995 amended Part 89 of the Natural Resources and Environmental Protection Act (NREPA), which concerns penalties for littering violations, to allow law enforcement officials to punish violators with civil fines, as an alternative to -- or in addition to -- criminal penalties, and to impose stiff fines for large-scale violations. The act was introduced primarily in response to the wide scale dumping of litter, including such items as stoves and refrigerators, by individuals who sought to avoid paying trash pickup fees, and by private waste disposal contractors who disposed of garbage on private lands. By allowing prosecutors to charge violators with a civil, rather than a criminal, offense, it was reasoned that the act would make it easier for offenders to be convicted (the burden of proof for a civil offense lies in a "preponderance of the evidence," which is less than the burden of proof in a criminal offense, in which guilt must be proven "beyond a reasonable doubt"). However, since the provisions of Public Act 111 will expire December 31, 1997, legislation is needed to repeal this expiration date.

THE CONTENT OF THE BILL:

Public Act 111 of 1995 amended Part 89 of the Natural Resources and Environmental Protection Act (NREPA), which concerns littering, to increase penalties against persons who dump litter, and to provide for civil remedies. The provisions of Public Act 111 will expire December 31, 1997. House Bill 4382 would amend the NREPA to repeal this expiration date.

MCL 324.8905

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no impact on state funds. (4-30-97)

ARGUMENTS:

For:

Littering causes degradation of the environment and pollution of water resources, presents safety hazards, and mars the beauty of Michigan's countryside. Strict laws are necessary to punish those who violate litter laws. The provisions of Public Act 111 of 1995, which established civil remedies for the offense of littering, have provided enforcement agencies and the courts with an effective means to enforce these laws. Repealing the December, 1997, expiration date of the act would allow these enforcement procedures to continue.

SUGGESTED AMENDMENTS:

Public Act 111 of 1995 established civil infractions for littering, and imposed fines for large-scale violations. These penalties were established in addition to the criminal penalties provided under Part 89 of the Natural Resources and Environmental Protection Act (NREPA), which specifies that littering is a misdemeanor, subject to a fine and also to court-imposed community service in the form of litter gathering labor. The Department of Natural Resources (DNR) has suggested that the misdemeanor sanction be deleted. According to the department, the provision has caused confusion among courts and law enforcement officials: in general, Part 89 of the NREPA now specifies that littering is a civil offense; a misdemeanor, on the other hand, denotes a criminal sanction. The DNR's proposed amendment would retain the community service provision of the act.

POSITIONS:

The Department of Environmental Quality (DEQ) supports the bill. (5-20-97)

The Sierra Club, Mackinac Chapter, supports the bill. (5-20-97)

The Michigan Environmental Council (MEC) supports the bill. (5-20-97)

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The Michigan United Conservation Clubs (MUCC) supports the bill. (5-20-97)

The Michigan Sheriffs' Association has no position on the bill. (5-20-97)

The Prosecuting Attorneys Association of Michigan has no position on the bill. (5-20-97)

The Department of Natural Resources (DNR) has no position on the bill. (5-20-97)

The Department of State Police has no position on the bill. (5-20-97)

Analyst: R. Young
