

REPEAL SUNSET ON LITTER PENALTIES

**House Bill 4382 as passed by
the House
Second Analysis (9-12-97)**

**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. The act also 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 bill would delete the misdemeanor sanction, but retain the community service provision of the act. The bill would specify that the community service sanction would be imposed in addition to any other penalty or sanction provided for under Part 89.

MCL 324.8904 et al.

FISCAL IMPLICATIONS:

According to the Department of Natural Resources, the bill would have no impact on state funds. (7-16-97)

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.

POSITIONS:

The Department of Natural Resources supports the bill. (9-11-97)

The Sierra Club, Mackinac Chapter, supports the bill. (9-11-97)

The Michigan Environmental Council (MEC) supports the bill. (9-12-97)

Analyst: R. Young

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

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