
Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill (as passed by the Senate)
Sponsor: Senator Loren Bennett
Committee: Natural Resources and Environmental Affairs

Date Completed: 3-4-97

RATIONALE

Part 111 of the Natural Resources and Environmental Protection Act (NREPA) prescribes criminal penalties for activities involving the illegal dumping, storage, or treatment of hazardous waste. Depending upon the offense, the penalties range from a maximum fine of \$25,000 and up to one year's imprisonment, to a maximum fine of \$250,000 and imprisonment for up to five years, or a maximum fine of \$1 million for a nonindividual, nongovernmental defendant. (The offense and penalties are described in detail in **BACKGROUND**, below.) It has been suggested that offenders also should be required to pay the costs of corrective action associated with their violations.

CONTENT

The bill would amend Part 111 (Hazardous Waste Management) of the NREPA to provide that a person who was convicted of a hazardous waste offense would have to be ordered to pay all costs of corrective action associated with the violation. This would be in addition to the fine and imprisonment that may be imposed for the offense.

MCL 324.11151

BACKGROUND

Under Section 11151 of the NREPA, it is a misdemeanor to transport, treat, store, dispose of, or generate hazardous waste in violation of Part 111, or contrary to a permit, license, order, or rule issued or promulgated under Part 111; to make a false statement, representation, or certification in an application for, or form pertaining to, a permit, license, or order or in a notice or report required by the terms of a permit, license, or order; or to violate Section 11144(5) of the Act (which requires a person to notify the State if he or she knows that

hazardous waste is being treated, disposed of, or stored in violation of Part 111, or that an emergency situation exists). This offense is punishable by a maximum fine of \$25,000 for each instance of violation and, if the violation is continuous, for each day of violation, or imprisonment for up to one year, or both. If the violation was committed after a prior conviction, the misdemeanor is punishable by a maximum fine of \$50,000 for each instance and, if the violation is continuous, for each day of violation, and/or imprisonment for up to two years.

If a person knowingly stores, treats, transports, or disposes of any hazardous waste in violation of these provisions, and knows at the time that he or she is placing another person in imminent danger of death or serious bodily injury, and if the offender's conduct manifests an unjustified and inexcusable disregard for human life, or if his or her conduct manifests an extreme indifference for human life, the offender is subject to a maximum fine of \$250,000 and/or imprisonment for up to two years. If a person's actions constitute an extreme indifference for human life, the maximum prison term is five years. If a defendant is not an individual and not a governmental entity, the defendant is subject to a maximum fine of \$1 million.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would ensure that people convicted of hazardous waste offenses were ordered to pay the costs of associated corrective action, rather than merely being assessed a fine and/or imprisoned. This could generate funds for environmental cleanup and reduce the amount of money spent by

the State for environmental response activity. While the current penalties serve to punish the offender, the proposed penalty also would benefit the natural resources and the taxpayers.

Legislative Analyst: S. Margules

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the reduction of cleanup costs, depending upon how many offenses would be prosecuted, and the extent to which convicted offenders would pay the cost of corrective actions.

Fiscal Analyst: G. Cutler

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.