

SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 4382

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending section 8904 (MCL 324.8904), as amended by 1995 PA  
111, and by adding sections 8905a, 8905b, and 8905c.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 8904. ~~-(1) A person who violates this part is guilty~~  
2 ~~of a misdemeanor and shall be fined not less than \$100.00 or more~~  
3 ~~than \$500.00, and the costs of prosecution, or imprisonment for~~  
4 ~~not more than 90 days, or both. Additionally, the court shall~~  
5 ~~impose, under the supervision of the court, community service in~~  
6 ~~the form of litter-gathering labor, including, but not limited~~  
7 ~~to, litter connected with the particular violation.~~

8       (1) ~~-(2)-~~ Except as provided in subsection ~~-(4)-~~ (3)  
9 involving litter from a leased vehicle or leased vessel, in a  
10 proceeding for a violation of this part involving litter from a

**HB 4382, As Passed Senate, February 17, 1998**

House Bill No. 4382

2

1 motor vehicle or vessel, proof that the particular vehicle or  
2 vessel described in the citation, complaint, or warrant was used  
3 in the violation, together with proof that the defendant named in  
4 the citation, complaint, or warrant was the registered owner of  
5 the vehicle or vessel at the time of the violation, constitutes  
6 an evidentiary presumption that the registered owner of the vehi-  
7 cle or vessel was the driver of the vehicle or vessel at the time  
8 of the violation.

9       (2) ~~(3)~~ The driver of a vehicle or vessel is presumed to  
10 be responsible for litter that is thrown, dumped, deposited,  
11 placed, or left from the vehicle or vessel on public or private  
12 property or water.

13       (3) ~~(4)~~ In a proceeding for a violation of this part  
14 involving litter from a leased motor vehicle or leased vessel,  
15 proof that the particular vehicle or vessel described in the  
16 citation, complaint, or warrant was used in the violation,  
17 together with proof that the defendant named in the citation,  
18 complaint, or warrant was the lessee of the vehicle or vessel at  
19 the time of the violation, constitutes an evidentiary presumption  
20 that the lessee of the vehicle or vessel was the driver of the  
21 vehicle or vessel at the time of the violation.

22       (4) ~~(5)~~ This section shall not apply if a sanction for the  
23 conduct is prescribed in section 8905a. ~~and the condition in~~  
24 ~~section 8905a(5) is satisfied.~~

25       SEC. 8905A. (1) A PERSON WHO VIOLATES THIS PART WHERE THE  
26 AMOUNT OF THE LITTER IS LESS THAN 1 CUBIC FOOT IN VOLUME IS

**HB 4382, As Passed Senate, February 17, 1998**

House Bill No. 4382

3

1 RESPONSIBLE FOR A STATE CIVIL INFRACTION AND IS SUBJECT TO A  
2 CIVIL FINE OF NOT MORE THAN \$800.00.

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

7 (3) A PERSON WHO VIOLATES THIS PART WHERE THE AMOUNT OF THE  
8 LITTER IS 3 CUBIC FEET OR MORE IN VOLUME IS RESPONSIBLE FOR A  
9 STATE CIVIL INFRACTION AND IS SUBJECT TO A CIVIL FINE OF NOT MORE  
10 THAN \$2,500.00. A PERSON FOUND TO HAVE VIOLATED THIS SUBSECTION  
11 IN A SUBSEQUENT PROCEEDING IS SUBJECT TO A CIVIL FINE OF NOT MORE  
12 THAN \$5,000.00.

13 (4) A DEFAULT IN THE PAYMENT OF A CIVIL FINE OR COSTS  
14 ORDERED UNDER THIS PART OR AN INSTALLMENT OF THE FINE OR COSTS  
15 MAY BE REMEDIED BY ANY MEANS AUTHORIZED UNDER THE REVISED JUDICA-  
16 TURE ACT OF 1961, 1961 PA 236, MCL 600.101 TO 600.9947.

17 (5) THIS SECTION DOES NOT APPLY TO A VIOLATION OF  
18 SECTION 8903 OR 8905.

19 SEC. 8905B. (1) IN ADDITION TO ANY OTHER PENALTY OR SANC-  
20 TION PROVIDED IN THIS PART FOR A CRIMINAL OR CIVIL ACTION BROUGHT  
21 UNDER THIS PART, THE COURT MAY REQUIRE THE DEFENDANT TO PAY  
22 EITHER OR BOTH OF THE FOLLOWING:

23 (A) THE COST OF REMOVING ALL LITTER WHICH IS THE SUBJECT OF  
24 THE VIOLATION AND THE COST OF DAMAGES TO ANY LAND, WATER, WILD-  
25 LIFE, VEGETATION, OR OTHER NATURAL RESOURCE OR TO ANY FACILITY  
26 DAMAGED BY THE VIOLATION OF THIS PART. MONEY COLLECTED UNDER

**HB 4382, As Passed Senate, February 17, 1998**

House Bill No. 4382

4

1 THIS SUBDIVISION SHALL BE DISTRIBUTED TO THE GOVERNMENTAL ENTITY  
2 BRINGING THE ENFORCEMENT ACTION.

3 (B) THE REASONABLE EXPENSE OF IMPOUNDMENT UNDER SECTION  
4 8905C. MONEY COLLECTED UNDER THIS SUBDIVISION SHALL BE DISTRIB-  
5 UTED TO THE GOVERNMENTAL ENTITY THAT IMPOUNDED THE VEHICLE  
6 INVOLVED IN THE VIOLATION OF THIS PART.

7 (2) IN ADDITION TO ANY OTHER PENALTY OR SANCTION PROVIDED  
8 FOR IN THIS PART, THE COURT SHALL IMPOSE, UNDER THE SUPERVISION  
9 OF THE COURT, COMMUNITY SERVICE IN THE FORM OF LITTER GATHERING  
10 LABOR, INCLUDING, BUT NOT LIMITED TO, LITTER CONNECTED WITH THE  
11 PARTICULAR VIOLATION.

12 SEC. 8905C. (1) A PEACE OFFICER MAY SEIZE AND IMPOUND A  
13 VEHICLE OPERATED IN THE COMMISSION OF A VIOLATION OF THIS PART IF  
14 THE OPERATOR OF THE VEHICLE HAS PREVIOUSLY BEEN CONVICTED FOR A  
15 VIOLATION OF THIS PART. UPON IMPOUNDMENT, THE VEHICLE IS SUBJECT  
16 TO A LIEN, SUBORDINATE TO A PRIOR LIEN OF RECORD, IN THE AMOUNT  
17 OF ANY FINE, COSTS, AND DAMAGES THAT THE DEFENDANT MAY BE ORDERED  
18 TO PAY UNDER THIS PART. THE DEFENDANT OR A PERSON WITH AN OWNER-  
19 SHIP INTEREST IN THE VEHICLE MAY POST WITH THE COURT A CASH OR  
20 SURETY BOND IN THE AMOUNT OF \$750.00. IF SUCH A BOND IS POSTED,  
21 THE VEHICLE SHALL BE RELEASED FROM IMPOUNDMENT. THE VEHICLE  
22 SHALL ALSO BE RELEASED, AND THE LIEN SHALL BE DISCHARGED, UPON A  
23 JUDICIAL DETERMINATION THAT THE DEFENDANT IS NOT RESPONSIBLE FOR  
24 THE VIOLATION OF THIS PART OR UPON PAYMENT OF THE FINE, COSTS,  
25 AND DAMAGES. ADDITIONALLY, IF THE DEFENDANT IS DETERMINED TO BE  
26 NOT RESPONSIBLE FOR THE VIOLATION OF THIS PART, THE COURT SHALL  
27 ASSESS AGAINST THE GOVERNMENTAL ENTITY BRINGING THE ACTION COSTS,

**HB 4382, As Passed Senate, February 17, 1998**

House Bill No. 4382

5

1 PAYABLE TO THE DEFENDANT, FOR ANY DAMAGES THAT THE DEFENDANT HAS  
2 SUSTAINED DUE TO THE IMPOUNDMENT OF THE VEHICLE.

3 (2) IF THE COURT DETERMINES THAT THE DEFENDANT IS RESPONSI-  
4 BLE FOR THE VIOLATION OF THIS PART AND THE DEFENDANT DEFAULTS IN  
5 THE PAYMENT OF ANY FINE, COSTS, OR DAMAGES, OR ANY INSTALLMENT,  
6 AS ORDERED PURSUANT TO THIS PART, ANY BOND POSTED UNDER SUBSEC-  
7 TION (1) SHALL BE FORFEITED AND APPLIED TO THE FINE, COSTS, DAM-  
8 AGES, OR INSTALLMENT. THE COURT SHALL CERTIFY ANY REMAINING  
9 UNPAID AMOUNT TO THE ATTORNEY FOR THE GOVERNMENTAL ENTITY BRING-  
10 ING THE ACTION. THE ATTORNEY FOR THE GOVERNMENTAL ENTITY MAY  
11 ENFORCE THE LIEN BY A FORECLOSURE SALE. THE FORECLOSURE SALE  
12 SHALL BE CONDUCTED IN THE MANNER PROVIDED AND SUBJECT TO THE SAME  
13 RIGHTS AS APPLY IN THE CASE OF EXECUTION SALES UNDER  
14 SECTIONS 6031, 6032, 6041, 6042, AND 6044 TO 6047 OF THE REVISED  
15 JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.6031, 600.6032,  
16 600.6041, 600.6042, AND 600.6044 TO 600.6047.

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

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**HB 4382, As Passed Senate, February 17, 1998**

House Bill No. 4382

6

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

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

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

7 (D) TO THE OWNER OF THE VEHICLE.