

SENATE BILL No. 38

January 30, 2001, Introduced by Senators NORTH, GOSCHKA, SHUGARS and DE BEAUSSAERT and referred to the Committee on Judiciary.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 80177 and 80178 (MCL 324.80177 and
324.80178), as added by 1995 PA 58.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 80177. (1) If a person is convicted of violating sec-
2 tion 80176(1), the following apply:

3 (a) Except as otherwise provided in subdivisions (b) and
4 (c), the person is guilty of a misdemeanor and shall be punished
5 by 1 or more of the following:

6 (i) Community service for not more than 45 days.

7 (ii) Imprisonment for not more than ~~90~~ 93 days.

8 (iii) A fine of not less than \$100.00 or more than \$500.00.

9 (b) If the violation occurs within 7 years of a prior
10 conviction, the person shall be sentenced to both a fine of not

1 less than \$200.00 or more than \$1,000.00 and either of the
2 following:

3 (i) Community service for not less than 10 days or more than
4 90 days, and may be imprisoned for not more than 1 year.

5 (ii) Imprisonment for not less than 48 consecutive hours or
6 more than 1 year, and may be sentenced to community service for
7 not more than 90 days.

8 (c) If the violation occurs within 10 years of 2 or more
9 prior convictions, the person is guilty of a felony and shall be
10 sentenced to imprisonment for not less than 1 year or more than 5
11 years, or a fine of not less than \$500.00 or more than \$5,000.00,
12 or both.

13 (2) A term of imprisonment imposed under subdivision (b)(ii)
14 shall not be suspended. A person sentenced to perform service to
15 the community under this section shall not receive compensation
16 and shall reimburse the state or appropriate local unit of gov-
17 ernment for the cost of supervision incurred by the state or
18 local unit of government as a result of the person's activities
19 in that service.

20 (3) In addition to the sanctions prescribed under
21 subsection (1) and section 80176(4) and (5), the court may, pur-
22 suant to the code of criminal procedure, ~~Act No. 175 of the~~
23 ~~Public Acts of 1927, being sections 760.1 to 776.21 of the~~
24 ~~Michigan Compiled Laws 1927 PA 175, MCL 760.1 TO 777.69, order~~
25 the person to pay the costs of the prosecution. The court shall
26 also impose sanctions under sections 80185 and 80186.

1 (4) A person who is convicted of violating section 80176(2)
2 is guilty of a misdemeanor, punishable by imprisonment for not
3 more than ~~90~~ 93 days, or a fine of not less than \$100.00 or
4 more than \$500.00, or both.

5 (5) As used in this section, "prior conviction" means a con-
6 viction for a violation of any of the following:

7 (a) Section 80176(1), (4), or (5).

8 (b) Former section 171(1), (4), or (5) of the marine safety
9 act.

10 (c) Former section 73 of the marine safety act.

11 (d) A local ordinance substantially corresponding to section
12 80176(1) or former section 73 of the marine safety act.

13 (e) A law of another state substantially corresponding to
14 section 80176(1), (4), or (5) or former section 73 of the marine
15 safety act.

16 Sec. 80178. (1) If a person is convicted of violating sec-
17 tion 80176(3), the following apply:

18 (a) Except as otherwise provided in subdivisions (b) and
19 (c), the person is guilty of a misdemeanor punishable by 1 or
20 more of the following:

21 (i) Community service for not more than 45 days.

22 (ii) Imprisonment for not more than ~~90~~ 93 days.

23 (iii) A fine of not more than \$300.00.

24 (b) If the violation occurs within 7 years of 1 prior con-
25 viction, the person shall be sentenced to both a fine of not less
26 than \$200.00 or more than \$1,000.00, and either of the
27 following:

1 (i) Community service for not less than 10 days or more than
2 90 days, and may be sentenced to imprisonment for not more than 1
3 year.

4 (ii) Imprisonment for not more than 1 year, and may be sen-
5 tenced to community service for not more than 90 days.

6 (c) If the violation occurs within 10 years of 2 or more
7 prior convictions, the person shall be sentenced to both a fine
8 of not less than \$200.00 or more than \$1,000.00, and either of
9 the following:

10 (i) Community service for a period of not less than 10 days
11 or more than 90 days, and may be sentenced to imprisonment for
12 not more than 1 year.

13 (ii) Imprisonment for not more than 1 year, and may be sen-
14 tenced to community service for not more than 90 days.

15 (2) In addition to the sanctions prescribed in subsection
16 (1), the court may, pursuant to the code of criminal procedure,
17 ~~Act No. 175 of the Public Acts of 1927, being sections 760.1 to~~
18 ~~776.21 of the Michigan Compiled Laws 1927 PA 175, MCL 760.1 TO~~
19 ~~777.69,~~ order the person to pay the costs of the prosecution.
20 The court shall also impose sanctions under sections 80185 and
21 80186.

22 (3) A person sentenced to perform service to the community
23 under this section shall not receive compensation, and shall
24 reimburse the state or appropriate local unit of government for
25 the cost of supervision incurred by the state or local unit of
26 government as a result of the person's activities in that
27 service.

1 (4) As used in this section, "prior conviction" means a
2 conviction for a violation of any of the following:

3 (a) Section 80176(1), (3), (4), or (5).

4 (b) Former section 171(1) of the marine safety act.

5 (c) Former section 73 of the marine safety act.

6 (d) Former section 73b of the marine safety act.

7 (e) A local ordinance substantially corresponding to section
8 80176(1), former section 73 of the marine safety act, or former
9 section 73b of the marine safety act.

10 (f) A law of another state substantially corresponding to
11 section 80176(1), (3), (4), or (5), former section 73 of the
12 marine safety act, or former section 73b of the marine safety
13 act.