

HOUSE BILL No. 5123

October 2, 2003, Introduced by Reps. Hunter and Tobocman and referred to the Committee on Land Use and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 8905a and 8905c (MCL 324.8905a and
324.8905c), as added by 1998 PA 15.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8905a. (1) A person who violates this part where the
2 amount of the litter is less than 1 cubic foot in volume is
3 responsible for a state civil infraction and is subject to a
4 civil fine of not more than \$800.00.

5 (2) A person who violates this part where the amount of the
6 litter is 1 cubic foot or more but less than 3 cubic feet in
7 volume is responsible for a state civil infraction and is subject
8 to a civil fine of not more than \$1,500.00.

9 (3) A person who violates this part where the amount of the
10 litter is 3 cubic feet or more **but less than 3 cubic yards** in

1 volume is responsible for a state civil infraction and is subject
2 to a civil fine of not more than \$2,500.00. A person found to
3 have violated this subsection in a subsequent proceeding is
4 subject to a civil fine of not more than \$5,000.00.

5 (4) A person who violates this part where the amount of the
6 litter is 3 cubic yards or more but less than 10 cubic yards in
7 volume is guilty of a misdemeanor punishable by imprisonment for
8 not more than 6 months or a fine of not more than \$2,500.00, or
9 both.

10 (5) A person who violates this part where the amount of the
11 litter is 10 or more cubic yards in volume or who is convicted of
12 a second or subsequent violation under subsection (4) is guilty
13 of a misdemeanor punishable by imprisonment for not more than 1
14 year or a fine of not more than \$5,000.00, or both.

15 (6) ~~-(4)-~~ A default in the payment of a civil fine or costs
16 ordered under this part or an installment of the fine or costs
17 may be remedied by any means authorized under the revised
18 judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

19 (7) ~~-(5)-~~ This section does not apply to a violation of
20 section 8903 or 8905.

21 Sec. 8905c. (1) A peace officer may seize and impound a
22 vehicle operated in the commission of a violation of this part.
23 ~~if the operator of the vehicle has previously been convicted for~~
24 ~~a violation of this part.~~ Upon impoundment, the vehicle is
25 subject to a lien, subordinate to a prior lien of record, in the
26 amount of any fine, costs, and damages that the defendant may be
27 ordered to pay under this part. The defendant or a person with

1 an ownership interest in the vehicle may post with the court a
2 cash or surety bond in the amount of \$750.00. If such a bond is
3 posted, the vehicle shall be released from impoundment. The
4 vehicle shall also be released, and the lien shall be discharged,
5 upon a judicial determination that the defendant is not
6 responsible for the violation of this part or upon payment of the
7 fine, costs, and damages. Additionally, if the defendant is
8 determined to be not responsible for the violation of this part,
9 the court shall assess against the governmental entity bringing
10 the action costs, payable to the defendant, for any damages that
11 the defendant has sustained due to the impoundment of the
12 vehicle.

13 (2) If the court determines that the defendant is responsible
14 for the violation of this part and the defendant defaults in the
15 payment of any fine, costs, or damages, or any installment, as
16 ordered pursuant to this part, any bond posted under subsection
17 (1) shall be forfeited and applied to the fine, costs, damages,
18 or installment. The court shall certify any remaining unpaid
19 amount to the attorney for the governmental entity bringing the
20 action. The attorney for the governmental entity may enforce the
21 lien by a foreclosure sale. The foreclosure sale shall be
22 conducted in the manner provided and subject to the same rights
23 as apply in the case of execution sales under sections 6031,
24 6032, 6041, 6042, and 6044 to 6047 of the revised judicature act
25 of 1961, 1961 PA 236, MCL 600.6031, 600.6032, 600.6041, 600.6042,
26 and 600.6044 to 600.6047.

27 (3) Not less than 21 days before the foreclosure sale under

1 subsection (2), the attorney for the governmental entity bringing
2 the action shall by certified mail send written notice of the
3 time and place of the foreclosure sale to each person with a
4 known ownership interest in or lien of record on the vehicle. In
5 addition, not less than 10 days before the foreclosure sale, the
6 attorney shall twice publish notice of the time and place of the
7 foreclosure sale in a newspaper of general circulation in the
8 county in which the vehicle was seized. The proceeds of the
9 foreclosure sale shall be distributed in the following order of
10 priority:

11 (a) To discharge any lien on the vehicle that was recorded
12 prior to the creation of the lien under subsection (1).

13 (b) To the clerk of the court for the payment of the fine,
14 costs, and damages, that the defendant was ordered to pay.

15 (c) To discharge any lien on the vehicle that was recorded
16 after the creation of the lien under subsection (1).

17 (d) To the owner of the vehicle.