

SENATE BILL No. 320

May 21, 1991, Introduced by Senator DINGELL and referred to the Committee on Judiciary.

A bill to provide for actions on behalf of the people of the state for damages caused by unlawful burning; and to provide for remedies and sanctions.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) Any person may maintain an action under this
2 act on behalf of the people of the state against any person,
3 partnership, corporation, association, or other legal entity for
4 damages caused by the defendant's actions in burning any property
5 or material unlawfully.

6 (2) Ownership of the property or material burned unlawfully
7 is not a defense to an action under this act.

8 (3) As used in this act, "unlawfully" means contrary to an
9 applicable statute, rule, ordinance, or permit.

1 Sec. 2. An action under this act shall be brought in the
2 circuit court having jurisdiction where the alleged unlawful
3 burning occurred.

4 Sec. 3. (1) If the court determines that a defendant burned
5 any property or material unlawfully, the court shall enter a
6 judgment against the defendant providing for all of the
7 following:

8 (a) An award of damages in favor of the people of the state,
9 as determined from the evidence presented.

10 (b) An award to the person maintaining the action of his or
11 her attorney fees and costs expended in maintaining the action.

12 (c) Imposition of a civil fine on the defendant of not less
13 than \$100.00 or not more than \$1,000.00.

14 (2) In satisfaction of a judgment awarded under subsection
15 (1), priority is given to the award of attorney fees and costs
16 under subsection (1)(b).

17 Sec. 4. This act is supplementary to existing civil reme-
18 dies, administrative and regulatory procedures provided by law,
19 and to the Thomas J. Anderson, Gordon Rockwell environmental pro-
20 tection act of 1970, Act No. 127 of the Public Acts of 1970,
21 being sections 691.1201 to 691.1207 of the Michigan Compiled
22 Laws. An action under this act may be joined with an action
23 under Act No. 127 of the Public Acts of 1970.

SENATE BILL No. 321

May 21, 1991, Introduced by Senators CARL, WELBORN,
EHLERS, WARTNER, DI NELLO, DINGELL and DUNASKISS
and referred to the Committee on Finance.

A bill to amend section 262 of Act No. 281 of the Public
Acts of 1967, entitled
"Income tax act of 1967,"
as amended by Act No. 516 of the Public Acts of 1988, being
section 206.262 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 262 of Act No. 281 of the Public Acts of
2 1967, as amended by Act No. 516 of the Public Acts of 1988, being
3 section 206.262 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 262. (1) For the 1983 through the ~~1991~~ 1994 tax
6 years, a taxpayer, other than an estate or a trust, may claim a
7 credit against the tax imposed by this act for the taxable year
8 in the amount as provided in this section for the purchase and
9 installation, but excluding finance charges, of a solar, wind, or

1 water energy conversion device in the taxpayer's domicile located
2 in this state, or a building that is owned by the taxpayer and
3 rented or leased for the purpose of providing a domicile and
4 located within this state, or both the taxpayer's domicile
5 located in this state and such a building. A subsequent pur-
6 chaser may claim the credit if the person who installed the
7 solar, wind, or water energy conversion device does not claim the
8 credit. Only 1 person may claim the credit for each installation
9 except as allowed in subsection (7). The credit shall be claimed
10 for the tax year in which the installation of the device was
11 completed.

12 (2) As used in this section:

13 (a) "Solar, wind, or water energy conversion device" means a
14 mechanism or system or series of mechanisms or systems designed
15 primarily to collect, convert, transfer, or store for future use
16 solar, wind, or water energy for the purposes of heating, cool-
17 ing, or electric supply, but not those parts of a heating, cool-
18 ing, or electric supply system that would be required regardless
19 of the energy source being utilized.

20 (b) "Water energy conversion device" includes only those
21 devices that utilize ground water heat pumps or low head hydroen-
22 ergy conversion systems.

23 (3) The amount of the credit allowed by this section for the
24 cost of purchase and installation, but excluding finance charges,
25 of a solar, wind, or water energy conversion device in the
26 taxpayer's domicile, or a building that is owned by the taxpayer
27 and rented or leased for the purpose of providing a domicile,

1 that is a single family dwelling and that is located within this
2 state is 30% of the first \$2,000.00 of cost and 15% of the next
3 \$3,000.00 of cost. However, the amount of the credit computed
4 pursuant to this subsection shall be reduced by the amount of any
5 sales or use tax exemption attributable to the taxpayer in 1983
6 pursuant to either former section 4h of the general sales tax
7 act, Act No. 167 of the Public Acts of 1933, or former section 4e
8 of the use tax act, Act No. 94 of the Public Acts of 1937.

9 (4) The amount of the credit allowed by this section for the
10 cost of purchase and installation, but excluding finance charges,
11 of a solar, wind, or water energy conversion device in the
12 taxpayer's domicile, or a building that is owned by the taxpayer
13 and rented or leased for the purpose of providing a domicile,
14 that is other than a single family dwelling and that is located
15 within this state is 30% of the first \$2,000.00 of cost and 15%
16 of the next \$7,000.00 of cost. However, the amount of the credit
17 computed pursuant to this subsection shall be reduced by the
18 amount of any sales or use tax exemption attributable to the tax-
19 payer in 1983 pursuant to either former section 4h of the general
20 sales tax act, Act No. 167 of the Public Acts of 1933, or former
21 section 4e of the use tax act, Act No. 94 of the Public Acts of
22 1937.

23 (5) A taxpayer who owns and resides in a condominium located
24 within this state and who installs a solar, wind, or water energy
25 conversion device for the condominium is eligible for the credit
26 provided by this section in proportion to the number of
27 households served by the device.

1 (6) Energy conservation measures applied in conjunction with
2 a solar, wind, or water energy conversion device to increase the
3 energy efficiency of the device shall be considered part of the
4 device and are eligible for the tax credit. These measures shall
5 be defined in the rules promulgated by the department of commerce
6 pursuant to subsection (9). A wood-burning apparatus, excluding
7 a fireplace, installed in conjunction with a solar, wind, or
8 water energy conversion system, to decrease the nonrenewable
9 back-up energy requirements of the building in which the appa-
10 ratus is installed, shall be considered part of the device and is
11 eligible for the tax credit. Swimming pool heating devices are
12 eligible for the credit only if 25% or more of the system's heat-
13 ing capacity is used for residential purposes. Energy conserva-
14 tion measures that are eligible for the tax credit when applied
15 in conjunction with a solar, wind, or water energy conversion
16 device shall be defined by rules promulgated by the department of
17 commerce as part of the eligibility criteria.

18 (7) In the case of a husband or wife who files a separate
19 return, the credit may be taken by either or equally divided
20 between them.

21 (8) If the credit allowed under this section exceeds the tax
22 liability for the taxable year, that portion of the credit that
23 exceeds the tax liability may be refunded.

24 (9) Before July 3, 1981, the department of commerce shall
25 promulgate rules pursuant to the administrative procedures act of
26 1969, Act No. 306 of the Public Acts of 1969, as amended, being
27 sections 24.201 to 24.328 of the Michigan Compiled Laws, to

1 implement this section and to establish the performance and
2 quality standards and other standards for energy conservation
3 measures and solar, wind, or water energy conversion devices that
4 are eligible for the tax credit under this section. A taxpayer
5 shall file for certification of a device with the department of
6 commerce on a form prescribed by the department not later than 1
7 year following the date on which the installation of the device
8 was completed. The department of commerce may grant an extension
9 for filing upon a showing of good cause. On a form provided by
10 the department, the department of commerce shall certify to the
11 taxpayer that the solar, wind, or water energy conversion device
12 qualifies under this section and shall specify the amount of the
13 credit to which the taxpayer is entitled. A copy of the certifi-
14 cate shall be attached to the return filed under this act. The
15 department of treasury may promulgate rules necessary to carry
16 out the purposes of this section.

17 (10) A solar, wind, or water energy conversion device that
18 qualifies for a credit provided under federal law and that was
19 purchased and installed before promulgation of rules required by
20 this section is eligible for the appropriate tax credit provided
21 by this section.

22 (11) Solar equipment testing, if required by the rules,
23 shall be carried out at a federal, state, or independent testing
24 laboratory and shall be done pursuant to applicable federal and
25 state guidelines.