

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 825

By: Easley, Gustafson, Capps
and Bell of the Senate

and

Rice of the House

COMMITTEE SUBSTITUTE

An Act relating to environment and natural resources; amending 21 O.S. 1991, Sections 1753.3 and 1761.1, which relate to litter; updating reference; adding to penalties; providing for community service; increasing fines and punishment; directing deposit of certain proceeds; amending 22 O.S. 1991, Section 1334, which relates to board of county commissioners; expanding use of reward fund; providing procedure for the transfer of certain monies; authorizing publication, advertising and countywide distribution of certain information; providing for citizen reports in certain situations; providing for additional penalties; amending 63 O.S. 1991, Sections 1-2416, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 1, Chapter 167, O.S.L. 1993, and 1-2413, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 41, Chapter 324, O.S.L. 1993 (27A O.S. Supp. 1993, Sections 2-10-701 and 2-10-1001), which relate to solid waste and county solid waste management systems; modifying closure and financial assurance requirements; stating requirements for implementation and completion within certain time period; requiring counties to submit solid waste management plan by certain date; providing for repeal of certain fees and procedures upon passage of constitutional amendment; authorizing counties to employ persons for certain law enforcement; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 1991, Section 1753.3, is amended to read as follows:

Section 1753.3 A. The operator of a vehicle shall be liable pursuant to subsection B of this section for any act of throwing, dropping, depositing, or otherwise placing any litter from his vehicle upon highways, roads, or public property unless any other

person in the vehicle admits to or is identified as having committed said act. Any person who admits to or is identified as having committed said act shall be liable for said act.

B. Any person convicted of violating the provisions of subsection A of this section shall be subject to the provisions of Section ~~4~~ 1761.1 of this ~~act~~ title.

C. As used in this section, "litter" means any flaming or glowing substances except those which by law may be placed upon highway rights-of-way, any substance which may cause a fire, any bottles, cans, trash, garbage, or debris of any kind. As used in this section, "litter" shall not include trash, garbage, or debris placed beside a public road for collection by a garbage or collection agency, or deposited upon or within public property designated by the state or by any of its agencies or political subdivisions as an appropriate place for such deposits if the person making the deposit is authorized to use the property for such purpose.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 1761.1, is amended to read as follows:

Section 1761.1 A. Any person who deliberately places, throws, drops, deposits or discards any garbage, trash, waste, rubbish, refuse, debris or other deleterious substance on any public property or on any private property of another without consent of the property owner shall be deemed guilty of a misdemeanor.

B. Any person convicted of violating the provisions of subsection A of this section shall be punished by a fine of not less than Two Hundred Dollars (\$200.00) nor more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

C. In addition to the penalty prescribed by subsection B of this section, the court may direct the person to make restitution to the property owner affected; to remove and properly dispose of the garbage, trash, waste, refuse or debris from the property; to pick up, remove and properly dispose of garbage, trash, waste, rubbish, refuse, debris and other nonhazardous deleterious

substances from public property; or perform community service or any combination of the foregoing which the court, in its discretion, deems appropriate. The dates, times and locations of such activities shall be scheduled by the sheriff pursuant to the order of the court in such a manner as not to interfere with the employment or family responsibilities of the person.

D. In addition to the penalty prescribed in subsection B of this section and the restitution prescribed in subsection C of this section, the court may order the defendant to pay into the reward fund as prescribed in Section 1334 of ~~this title~~ Title 22 of the Oklahoma Statutes an amount not to exceed ~~One Thousand Dollars (\$1,000.00)~~ Two Thousand Dollars (\$2,000.00).

E. Any full-time peace officer in this state including but not limited to the state highway patrol, county sheriffs and deputies, municipal law enforcement department, and any other employee of this state having peace officer authority upon investigation of the disposal of any substance in violation of this section which contains three or more items bearing a common address in a form which tends to identify the latest owner of the items shall create a rebuttable presumption that ~~all~~ any competent ~~persons~~ person residing at such address committed the unlawful act. The discovery or use of such evidence shall not be sufficient to qualify for the reward provided in Section 1334 of Title 22 of the Oklahoma Statutes.

F. Any person may report a violation of this section, if committed in their presence, to the State Highway Patrol, county sheriffs and deputies, municipal law enforcement departments or any other full-time peace officer in this state. The peace officer shall then conduct an investigation into the reported allegations. If a violation of this section has in fact been committed, and the peace officer has reasonable cause for believing a particular person or persons have committed the violation, a report shall be filed with the District Attorney for prosecution.

SECTION 3. AMENDATORY 22 O.S. 1991, Section 1334, is amended to read as follows:

Section 1334. A. The boards of county commissioners of counties and the governing bodies of municipalities may offer and pay a reward, from funds set aside for that purpose, in an amount not less than fifty percent (50%) of the fine imposed, for the arrest and conviction or for evidence leading to the arrest and conviction of any person who violates the provisions of Section ~~1~~ 1761.1 of Title 21 of the Oklahoma Statutes.

B. The board of county commissioners or the governing body of the municipality may create and maintain a reward fund in the county or municipal treasury which shall be a revolving fund not subject to fiscal year limitations, from which to pay the rewards provided for in subsection A of this section, and to offset the cost of any special enforcement programs originated by any law enforcement agency responsible for the arrest or prosecution of any person who violates the provisions of Section 1761.1 of Title 21 of the Oklahoma Statutes. Any monies for which no claim is filed within the period provided in subsection ~~C~~ D of this section, shall revert to the general fund in the case of a municipality. Any such monies remaining in the county treasury shall be supplementally appropriated or otherwise transferred, upon proper claim, to the law enforcement agency responsible for the arrest or prosecution of any person who violates the provisions of Section 1761.1 of Title 21 of the Oklahoma Statutes. Any monies remaining in the reward fund after all claims have been paid or denied shall revert to the general fund.

C. The board of county commissioners may provide for the publication, advertisement and countywide distribution to the public of information as to the reward program specified by this section.

D. Claims for rewards shall be on forms provided by the county or municipality and shall be submitted to the prosecuting attorney of the county or municipality no later than thirty (30) days after sentencing of the defendant. The prosecuting attorney shall investigate the validity of the claim and make a nonbinding written recommendation to the board of county commissioners or governing body of the municipality.

~~D.~~ E. All claims relating to a conviction shall be considered together at the next regular meeting of the board of county commissioners or governing body of the municipality following receipt of the prosecuting attorney's report.

~~E.~~ F. In determining the amount of the reward, the board of county commissioners or the governing body of the municipality shall have sole discretion to honor or deny the claim, but shall consider: 1. The severity of the offense;

2. The size of the fine imposed;

3. The number of persons claiming a reward and the degree to which each claimant was responsible for the arrest or conviction;

4. The burden, if any, incurred by the claimant including cost to appear at trial; and

5. Other factors which the board or governing body deems appropriate.

~~F.~~ G. No reward shall be authorized and no debt shall accrue to the county or municipality upon the depletion of the reward fund authorized by this section.

~~G.~~ H. The reward authorized by this section shall be in lieu of any other county or municipal reward.

~~H.~~ I. Full-time peace officers of this state or of any county or municipality within this state shall not be eligible for the reward provided by this section.

SECTION 4. AMENDATORY 63 O.S. 1991, Section 1-2416, as renumbered by Section 359, Chapter 145, O.S.L 1993, and as last amended by Section 1, Chapter 167, O.S.L. 1993 (27A O.S. Supp. 1993, Section 2-10-701), is amended to read as follows:

Section 2-10-701. A. All disposal site owners shall provide a closure plan to the Department of Environmental Quality for approval which defines operational phases and includes cost estimates, and plans and specifications for final closure. A site may be closed in phases according to a closure plan approved by the Department.

1. Owners of landfills that receive household solid waste, defined as Municipal Solid Waste Landfill Facilities in the federal regulations adopted under Subtitle D of the federal Solid Req. No. 9464Page 5

Waste Disposal Act, and owners of commercial nonhazardous industrial waste landfills shall ~~also~~ provide for the maintenance and monitoring of such works for thirty (30) years ~~or such post-closure time period as may be mandated under the federal Solid Waste Disposal Act.~~ Provided, the owner of any landfill that stops receiving waste prior to April 8, 1994, and has completed final closure of the site prior to October 8, 1994, shall provide for the maintenance and monitoring of such site for eight (8) years after final closure has been completed.

2. Generator owned and operated private industrial nonhazardous monofills shall only be required to have an eight-year post-closure period or such post-closure time period as may be mandated under the federal Solid Waste Disposal Act.

3. Disposal sites other than land disposal sites shall have a closure plan which would accomplish the removal and proper disposal of any remaining waste and the elimination of potential environmental health hazards.

B. The Department shall require that financial assurances be provided in an amount sufficient to cover the estimated cost of closure and any post-closure. An increase in financial assurance shall be required when any permittee deviates from the approved closure plan or when the cost of closure or post-closure is found to have increased. Owners of landfills that receive household solid waste shall increase financial assurance if corrective action is required.

C. Disposal site owners shall provide financial assurance, in a form described under the federal Solid Waste Disposal Act, or cash or certificates of deposit payable to the Department of Environmental Quality Revolving Fund, to guarantee the performance of ~~such final closure plan and for any required post-closure.~~ The state shall be the sole beneficiary of any such security solely for closure and post-closure. In lieu of such security the owner may deposit cash or certificates of deposit with the State Treasurer payable to the Department of Environmental Quality Revolving Fund. The state shall have a security interest therein for the cost of performance of final closure and post-closure.

This subsection shall not apply to units of ~~state or~~ federal government. Other units of government that own disposal sites that receive waste after ~~October 8, 1993~~ April 9, 1994, shall provide financial security for closure by ~~April 9, 1994~~, ~~except as may otherwise be prescribed under the federal Solid Waste Disposal Act and post-closure by April 9, 1995~~. No other disposal site owner shall accept waste after October 8, ~~1993~~ 1994, unless financial security is provided as required by law. ~~If the time for posting any such financial security is extended under the federal Solid Waste Disposal Act, these dates shall also be extended accordingly.~~ Financial assurance provided prior to the effective date of this act as a condition of issuance of any permit or any agreement with the Department shall continue in effect. In lieu of the performance guarantee mechanisms specified herein, owners or operators of a nonhazardous industrial solid waste landfill which is owned or operated by an industry or manufacturer for its exclusive noncommercial use may also satisfy the financial assurance requirements for closure, post-closure and maintenance by meeting the requirements of a corporate financial test and corporate guarantee similar to that applicable to hazardous waste facilities.

D. When financial security is required, it shall remain in effect until closure and any post-closure is completed. The amount of such security shall be set by the Department and shall not be less than the anticipated cost of contracting for performance of each phase of the closure plan and post-closure. The Department may allow a reduction in the amount of security to reflect the anticipated costs which remain.

SECTION 5. AMENDATORY 63 O.S. 1991, Section 1-2413, as renumbered by Section 359, Chapter 145, O.S.L. 1993, and as last amended by Section 41, Chapter 324, O.S.L. 1993 (27A O.S. Supp. 1993, Section 2-10-1001), is amended to read as follows:

Section 2-10-1001. A. The board of county commissioners in each county of the state ~~may~~ shall develop a plan, subject to the approval of the Department of Environmental Quality, to provide a solid waste management system to handle adequately solid wastes

generated or existing within the boundaries of such county. The plan must be submitted to the Department for approval no later than July 1, 1996. By agreement or contractual arrangement the board of county commissioners may assume responsibility for solid wastes generated within incorporated cities or towns whether within their counties or other counties. The board of county commissioners of a county may enter into agreements with other counties, one or more towns or cities, governmental agencies, with private persons, trusts or with any combination thereof to provide a solid waste management system for the county or any portion thereof.

B. The county commissioners shall have the authority to levy and collect such fees and charges and require such licenses as may be appropriate to discharge their responsibility for a solid waste management system or any portion thereof. Such fees, charges and licenses shall be based on a fee schedule contained in an official resolution of the board of county commissioners and may be invoiced and collected by other public or private utility services in the normal course of their business.

C. The board of county commissioners may accept and disburse funds derived from federal or state grants or from private sources or from monies that may be appropriated from the General Revenue Fund for the installation and operation of a solid waste management system.

D. The board of county commissioners is authorized to contract for the lease or purchase of land, facilities and vehicles for the operation of a solid waste management system either for the county or as a party to a regional solid waste management district.

E. The board of county commissioners of a county shall have the right to establish written policies in compliance with the plan approved by the Department for the operation of a solid waste management system including hours of operation, amount, character and kind of waste accepted at the solid waste container sites or any disposal site, and such other rules as may be necessary for

the safety of the operating personnel, persons using the sites and the general public.

F. The board of county commissioners of a county is authorized to hire such persons, including peace officers, as may be necessary to administer the county solid waste management system, enforce policies established pursuant to the solid waste plan and issue citations for violation of the solid waste laws of the State of Oklahoma.

G. Any person who violates any policy established by the board of county commissioners for the operation of a solid waste management system created pursuant to the provisions of this section, shall be subject to a civil penalty not to exceed Five Hundred Dollars (\$500.00) per day. Each violation shall constitute a separate offense.

~~G.~~ H. The provisions of this section requiring approval of the Department for plans providing for a solid waste management system, shall not apply to counties having a solid waste management system plan in effect on July 1, 1992. For any county having a solid waste management system plan in effect on July 1, 1992, the county commissioners may charge and collect reasonable service and disposal fees as necessary for any nonhazardous industrial solid waste collection and disposal system. In determining reasonable fees for any nonhazardous industrial solid waste collection and disposal system, the county may take into account the damage and repair of access roads, litter control, surveillance, civil defense, and such other costs and expenditures deemed necessary by the county. Any person subject to the assessment of such fees who is aggrieved at the action of the commissioners in determining the amount of such fees, may appeal the action of the commissioners to the district court of the county for a review as to the reasonableness of the fees. The decision of the court shall be final and binding upon the commissioners, provided that any such order of the commissioners assessing the fees shall be binding until reversed by the court.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency
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is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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