

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2600

By: Maddux (Elmer)

AS INTRODUCED

An Act relating to crimes and punishment and criminal procedure; amending 21 O.S. 1991, Sections 1753.3 and 1761.1, which relate to litter; amending 22 O.S. 1991, Section 1334, which relates to board of county commissioners; clarifying language; making certain disposal unlawful; modifying and adding to penalties; increasing fines and punishment; authorizing seizure and forfeiture of certain vehicles; requiring certain reward fund; providing for publication, advertising and county wide distribution; and providing an effective date.

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. 1. 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; and

2. The provisions of this section shall also include the unauthorized disposal of litter or other solid waste in a dumpster or similar receptacle.

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. A subsequent conviction for a violation of the provisions of this section shall subject any vehicle used in the dumping of any such garbage, trash, waste, rubbish, refuse, debris or other deleterious substance to seizure and forfeiture proceedings. On conviction for an offense pursuant to subsection B of this section, the court shall provide to the defendant written notice that a subsequent conviction for an offense under this section may result in seizure and forfeiture of the vehicle used by the defendant in committing the offense.

E. 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~~ shall order the defendant to pay into the reward fund as prescribed in Section 1334 of this title an amount not to exceed ~~One Thousand Dollars (\$1,000.00)~~ Two Thousand Dollars (\$2,000.00).

~~E.~~ F. 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.

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~~ shall 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. 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. 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 shall 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. This act shall become effective September 1, 1994.

44-2-7790

KSM