STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

2ND CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 777

By: Easley, Muegge and Long (Ed) of the Senate

and

Rice and Staggs of the House

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to environmental crimes; amending 21 O.S. 1991, Sections 1753.3, as amended by Section 1, Chapter 338, O.S.L. 1994, and 1761.1, as amended by Section 2, Chapter 338, O.S.L. 1994 (21 O.S. Supp. 1995, Sections 1753.3 and 1761.1), which relate to littering and dumping trash; modifying language; providing penalty; requiring certain monies be paid into certain fund; allowing issuance of certain traffic citation under certain circumstances; specifying amount of bail for certain offenses; amending 22 O.S. 1991, Section 1334, as amended by Section 3, Chapter 338, O.S.L. 1994 (22 O.S. Supp. 1995, Section 1334), which relates to rewards; setting maximum amount of reward; adding statutory reference; deleting provision requiring certain funds to revert to general fund; requiring certain transfer of certain funds; 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, as amended by Section 1, Chapter 338, O.S.L. 1994 (21 O.S. Supp. 1995, Section 1753.3), is amended to read as follows:

Section 1753.3 A. The operator of a vehicle, unless any other person in the vehicle admits to or is identified as having committed the act, shall be liable pursuant to subsection B of this section for any act of throwing, dropping, depositing, or otherwise placing any litter from ~~his~~ a 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 a state traffic offense punishable by a fine of not more than Two Hundred Dollars ($200.00), or the violator may be subject to criminal prosecution as provided by the provisions of Section 1761.1 of this title. The penalties collected from the payment of such citations shall, after deduction of court costs, be paid into the reward fund created pursuant to Section 1334 of Title 22 of the Oklahoma Statutes.

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, as amended by Section 2, Chapter 338, O.S.L. 1994 (21 O.S. Supp. 1995, Section 1761.1), is amended to read as follows:

Section 1761.1 A. Any person who deliberately places, throws, drops, dumps, 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 Title 22 of the Oklahoma Statutes an amount not to exceed 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~~ The discovery of three or more items ~~bearing~~ which have been dropped, dumped, deposited, discarded, placed, or thrown at one location and which bear a common address in a form which tends to identify the latest owner of the items shall create a rebuttable presumption that any competent 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~~ an officer of the State Highway Patrol, a county ~~sheriffs and deputies~~ sheriff or deputy, a municipal law enforcement ~~departments~~ officer or any other ~~full-~~

~~time~~ peace officer in this state. The peace officer shall then conduct an investigation into the ~~reported~~ allegations, if warranted. If a violation of this section has in fact been committed, and the peace officer has reasonable cause ~~for believing~~ to believe a particular person or persons have committed the violation, a report shall be filed with the District Attorney for prosecution.

G. Notwithstanding the provisions of subsection F of this section, any peace officer of this state or of any political subdivision of this state may issue a state traffic citation to any person committing a violation of subsection A of this section. Such state traffic citation shall be in an amount not exceeding Two Hundred Dollars ($200.00) and the penalties collected from the payment of such citations shall, after deduction of court costs, be paid into the reward fund created pursuant to Section 1334 of Title 22 of the Oklahoma Statutes.

H. The amount of bail for littering offenses specified in Section 1753.3 of Title 21 of the Oklahoma Statutes and for trash dumping offenses specified in this section shall be the amount of fine specified in each statute and costs including any penalty assessment, as well as costs incurred in Section 1313.3 of Title 20 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 22 O.S. 1991, Section 1334, as amended by Section 3, Chapter 338, O.S.L. 1994 (22 O.S. Supp. 1995, 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~~ to exceed 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~~ Sections 1753.3 or 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~~ Sections 1753.3 or 1761.1 of Title 21 of the Oklahoma Statutes. ~~In the case of a municipality any monies for which no claim is filed within the period provided in subsection D of this section shall revert to the general fund. 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.

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.

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.

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.

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

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.

J. All courts assessing and receiving reward funds as required by Sections 1753.3 and 1761.1 of Title 21 of the Oklahoma Statutes shall provide appropriate transfer of the reward funds to the proper county or municipal reward fund as prescribed by the provisions of this section.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency 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.

45-2-3025 MJM