

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2921

By: Trebilcock

4
5 AS INTRODUCED

6 An Act relating to crimes and punishments; amending
7 21 O.S. 2001, Section 1761.1, as amended by Section
8 3, Chapter 268, O.S.L. 2006 (21 O.S. Supp. 2007,
9 Section 1761.1), which relates to litter; modifying
10 distribution of fines; providing for a portion of
11 fines to go to a person who reports a violation; and
12 providing an effective date.

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

14 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1761.1, as
15 amended by Section 3, Chapter 268, O.S.L. 2006 (21 O.S. Supp. 2007,
16 Section 1761.1), is amended to read as follows:

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

23 B. Any person convicted of violating the provisions of
24 subsection A of this section shall be punished by a fine of not less
than Two Hundred Dollars (\$200.00) nor more than Five Thousand

1 Dollars (\$5,000.00) or by imprisonment in the county jail for not
2 more than thirty (30) days, or by both such fine and imprisonment.

3 C. Any person convicted of violating the provisions of
4 subsection A of this section with any flaming or glowing substance,
5 or any substance which may cause a fire shall be punished by a fine
6 of not less than Two Thousand Dollars (\$2,000.00) nor more than Five
7 Thousand Dollars (\$5,000.00) or by imprisonment in the county jail
8 for not more than sixty (60) days, or by both such fine and
9 imprisonment. The penalties collected from the payment of the
10 citations shall, after deduction of court costs, be paid to the fire
11 department of the district in which the flaming or glowing substance
12 was discarded. Any person violating the provisions of this
13 subsection shall be liable for all damages caused by the violation.
14 Damages shall be recoverable in any court of competent jurisdiction.

15 D. During a burn ban declared by the Governor, any person
16 convicted of violating the provisions of subsection A of this
17 section with any flaming or glowing substances, or any substance
18 which may cause a fire shall be punished by a fine of not less than
19 Four Thousand Dollars (\$4,000.00) nor more than Ten Thousand Dollars
20 (\$10,000.00) or by imprisonment in the county jail for not more than
21 one hundred twenty (120) days, or by both such fine and
22 imprisonment. The penalties collected from the payment of the
23 citations shall, after deduction of court costs, be paid to the fire
24 department of the district in which the flaming or glowing substance

1 was discarded. Any person violating the provisions of this
2 subsection shall be liable for all damages caused by the violation.
3 Damages shall be recoverable in any court of competent jurisdiction.

4 E. In addition to the penalty prescribed by subsection B of
5 this section, the court shall direct the person to make restitution
6 to the property owner affected; to remove and properly dispose of
7 the garbage, trash, waste, rubbish, refuse, or debris from the
8 property; to pick up, remove, and properly dispose of garbage,
9 trash, waste, rubbish, refuse, debris, and other nonhazardous
10 deleterious substances from public property; or perform community
11 service or any combination of the foregoing which the court, in its
12 discretion, deems appropriate. The dates, times, and locations of
13 such activities shall be scheduled by the sheriff pursuant to the
14 order of the court in such a manner as not to interfere with the
15 employment or family responsibilities of the person.

16 F. In addition to the penalty prescribed in subsection B of
17 this section and the restitution prescribed in subsection E of this
18 section, the court may order the defendant to pay into the reward
19 fund as prescribed in Section 1334 of Title 22 of the Oklahoma
20 Statutes an amount not to exceed Two Thousand Dollars (\$2,000.00).

21 G. The discovery of two or more items which have been dropped,
22 dumped, deposited, discarded, placed, or thrown at one location and
23 which bear a common address in a form which tends to identify the
24 latest owner of the items shall create a rebuttable presumption that

1 any competent person residing at such address committed the unlawful
2 act. The discovery or use of such evidence shall not be sufficient
3 to qualify for the reward provided in Section 1334 of Title 22 of
4 the Oklahoma Statutes.

5 H. Any person may report a violation of this section, if
6 committed in their presence, to an officer of the State Highway
7 Patrol, a county sheriff or deputy, a municipal law enforcement
8 officer or any other peace officer in this state. The peace officer
9 shall then conduct an investigation into the allegations, if
10 warranted. If a violation of this section has in fact been
11 committed, and the peace officer has reasonable cause to believe a
12 particular person or persons have committed the violation, a report
13 shall be filed with the District Attorney for prosecution.

14 I. Notwithstanding the provisions of subsection H of this
15 section, any peace officer of this state or of any political
16 subdivision of this state may issue a state traffic citation to any
17 person committing a violation of subsection A of this section. Such
18 state traffic citation shall be in an amount not exceeding Two
19 Hundred Dollars (\$200.00) and the penalties collected from the
20 payment of such citations shall, after deduction of court costs, be
21 divided as follows:

22 1. ~~One-half (1/2)~~ One-third (1/3) shall be paid into the reward
23 fund created pursuant to Section 1334 of Title 22 of the Oklahoma
24 Statutes; ~~and~~

1 2. ~~One-half (1/2)~~ One-third (1/3) shall be paid into the
2 sheriff's service fee account for that county to be used for
3 enforcing provisions of this section; and

4 3. One-third (1/3) shall be paid to the person who reported the
5 violation. The provisions of this paragraph shall not apply to the
6 peace officer issuing the citation. If no person reported the
7 violation, or if the identity of the person is unascertainable, then
8 one-half (1/2) of the penalty shall be paid to the reward fund and
9 one-half (1/2) shall be paid into the sheriff's service fee account,
10 as provided for in paragraphs 1 and 2 of this subsection.

11 J. The amount of bail for littering offenses specified in
12 Section 1753.3 of this title and for trash dumping offenses
13 specified in this section shall be the amount of fine specified in
14 each statute plus costs including any penalty assessment, as well as
15 costs incurred in Section 1313.3 of Title 20 of the Oklahoma
16 Statutes.

17 SECTION 2. This act shall become effective November 1, 2008.

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