STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 89 By: Ballenger of the Senate

and

Wesselhoft of the House

COMMITTEE SUBSTITUTE

An Act relating to littering; amending 21 O.S. 2011, Section 1761.1, which relates to penalties for dumping trash on private property; modifying certain fine; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 21 O.S. 2011, 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 Five Thousand Dollars ($5,000.00) or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

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

D. During a burn ban declared by the Governor, any person convicted of violating the provisions of subsection A of this section with any flaming or glowing substances, or any substance which may cause a fire shall be punished by a fine of not less than Four Thousand Dollars ($4,000.00) nor more than Ten Thousand Dollars ($10,000.00) or by imprisonment in the county jail for not more than one hundred twenty (120) days, or by both such fine and

imprisonment. The penalties collected from the payment of the citations shall, after deduction of court costs, be paid to the fire department of the district in which the flaming or glowing substance was discarded. Any person violating the provisions of this subsection shall be liable for all damages caused by the violation. Damages shall be recoverable in any court of competent jurisdiction.

E. In addition to the penalty prescribed by subsection B of this section, the court shall direct the person to make restitution to the property owner affected; to remove and properly dispose of the garbage, trash, waste, rubbish, 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.

F. In addition to the penalty prescribed in subsection B of this section and the restitution prescribed in subsection E 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).

G. The discovery of two or more items 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.

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

I. Notwithstanding the provisions of subsection H 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~~ to exceed Four Hundred Dollars ($400.00). The penalties collected from the payment of such

citations shall~~, after deduction of~~ not include court costs~~,~~ and shall be divided as follows:

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

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

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

SECTION 2. This act shall become effective July 1, 2013.

SECTION 3. 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.

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