

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 2702

By: Echols

COMMITTEE SUBSTITUTE

An Act relating to crimes and punishments; amending 21 O.S. 2011, Section 1761.1, as amended by Section 1, Chapter 255, O.S.L. 2013 (21 O.S. Supp. 2017, Section 1761.1), which relates to dumping of trash on public or private property; providing penalty for dumping furniture or items of certain weight; increasing amount of certain citation; redirecting certain funds under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1761.1, as amended by Section 1, Chapter 255, O.S.L. 2013 (21 O.S. Supp. 2017, 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

1 consent of the property owner shall be deemed guilty of a
2 misdemeanor.

3 B. Any person convicted of violating the provisions of
4 subsection A of this section shall be punished by a fine of not less
5 than Two Hundred Dollars (\$200.00) nor more than Five Thousand
6 Dollars (\$5,000.00) or by imprisonment in the county jail for not
7 more than thirty (30) days, or by both such fine and imprisonment.

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

20 D. During a burn ban declared by the Governor, any person
21 convicted of violating the provisions of subsection A of this
22 section with any flaming or glowing substances, or any substance
23 which may cause a fire shall be punished by a fine of not less than
24 Four Thousand Dollars (\$4,000.00) nor more than Ten Thousand Dollars

1 (\$10,000.00) or by imprisonment in the county jail for not more than
2 one hundred twenty (120) days, or by both such fine and
3 imprisonment. The penalties collected from the payment of the
4 citations shall, after deduction of court costs, be paid to the fire
5 department of the district in which the flaming or glowing substance
6 was discarded. Any person violating the provisions of this
7 subsection shall be liable for all damages caused by the violation.
8 Damages shall be recoverable in any court of competent jurisdiction.

9 E. Any person convicted of violating the provisions of
10 subsection A of this section with any item of furniture, or item
11 that exceeds fifty (50) pounds, shall be punished by a fine of not
12 less than One Thousand Dollars (\$1,000.00) nor more than Six
13 Thousand Five Hundred Dollars (\$6,500.00) or by imprisonment in the
14 county jail for not more than sixty (60) days, or by both such fine
15 and imprisonment.

16 F. In addition to the penalty prescribed by subsection B of
17 this section, the court shall direct the person to make restitution
18 to the property owner affected; to remove and properly dispose of
19 the garbage, trash, waste, rubbish, refuse, or debris from the
20 property; to pick up, remove, and properly dispose of garbage,
21 trash, waste, rubbish, refuse, debris, and other nonhazardous
22 deleterious substances from public property; or perform community
23 service or any combination of the foregoing which the court, in its
24 discretion, deems appropriate. The dates, times, and locations of

1 such activities shall be scheduled by the sheriff pursuant to the
2 order of the court in such a manner as not to interfere with the
3 employment or family responsibilities of the person.

4 ~~F.~~ G. In addition to the penalty prescribed in subsection B of
5 this section and the restitution prescribed in subsection ~~E~~ F of
6 this section, the court may order the defendant to pay into the
7 reward fund as prescribed in Section 1334 of Title 22 of the
8 Oklahoma Statutes an amount not to exceed Two Thousand Dollars
9 (\$2,000.00).

10 ~~G.~~ H. The discovery of two or more items which have been
11 dropped, dumped, deposited, discarded, placed, or thrown at one
12 location and which bear a common address in a form which tends to
13 identify the latest owner of the items shall create a rebuttable
14 presumption that any competent person residing at such address
15 committed the unlawful act. The discovery or use of such evidence
16 shall not be sufficient to qualify for the reward provided in
17 Section 1334 of Title 22 of the Oklahoma Statutes.

18 ~~H.~~ I. Any person may report a violation of this section, if
19 committed in ~~their~~ his or her presence, to an officer of the State
20 Highway Patrol, a county sheriff or deputy, a municipal law
21 enforcement officer or any other peace officer in this state. The
22 peace officer shall then conduct an investigation into the
23 allegations, if warranted. If a violation of this section has in
24 fact been committed, and the peace officer has reasonable cause to

1 believe a particular person or persons have committed the violation,
2 a report shall be filed with the District Attorney for prosecution.

3 ~~I.~~ J. Notwithstanding the provisions of subsection ~~H~~ I of this
4 section, any peace officer of this state or of any political
5 subdivision of this state may issue a state traffic citation to any
6 person committing a violation of subsection A of this section. Such
7 state traffic citation shall be in an amount not to exceed ~~Four~~
8 ~~Hundred Dollars (\$400.00)~~ Five Hundred Dollars (\$500.00). The
9 penalties collected from the payment of such citations shall not
10 include court costs and shall be divided as follows:

11 1. One-half (1/2) shall be paid into the reward fund created
12 pursuant to Section 1334 of Title 22 of the Oklahoma Statutes;
13 provided that if the citation is issued by a peace officer of a
14 county of this state, the funds allocated by this paragraph shall be
15 transferred to the general fund of the county of the law enforcement
16 officer issuing the citation; and

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

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

3 SECTION 2. This act shall become effective November 1, 2018.

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