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April 1, 2019

ENGROSSED HOUSE

BILL NO. 1110

By: West (Kevin) of the House

and

Kidd and Weaver of the
Senate

An Act relating to crimes and punishments; amending 21 O.S. 2011, Sections 1205 and 1206, which relate to dumping trash; expanding scope of crime to include certain property; modifying penalty; amending 21 O.S. 2011, Section 1761.1, as last amended by Section 1, Chapter 119, O.S.L. 2018 (21 O.S. Supp. 2018, Section 1761.1), which relates to penalties for dumping trash; expanding scope of crime to include certain property; modifying range of penalties for traffic citation; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1205, is amended to read as follows:

Section 1205. It shall be unlawful for any person to throw or leave or deposit garbage, tin cans, junk, rubbish or refuse and other items and matters commonly referred to as trash within one hundred (100) yards of any state highway or any county road or the occupied dwelling of another, except when the placement of such materials is along a collection route for the specific intent and

1 purpose of scheduled collection and transportation to a recycling or
2 disposal facility serving the area. Provided, however, that any
3 city or town operating or desiring to operate a solid waste disposal
4 site within the distance above prescribed may establish said solid
5 waste disposal site when said solid waste disposal site is approved
6 by the Oklahoma Department of Environmental Quality.

7 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1206, is
8 amended to read as follows:

9 Section 1206. Any person or any officer of any city or town
10 violating any of the provisions of this act shall, upon conviction,
11 be fined not ~~more~~ less than ~~One Hundred Dollars (\$100.00)~~ Two
12 Hundred Dollars (\$200.00) nor more than Five Hundred Dollars
13 (\$500.00), or be imprisoned in the county jail for not more than
14 thirty (30) days, or by both such fine and imprisonment.

15 SECTION 3. AMENDATORY 21 O.S. 2011, Section 1761.1, as
16 last amended by Section 1, Chapter 119, O.S.L. 2018 (21 O.S. Supp.
17 2018, Section 1761.1), is amended to read as follows:

18 Section 1761.1. A. Any person who deliberately places, throws,
19 drops, dumps, deposits, or discards any garbage, trash, waste,
20 rubbish, refuse, debris, or other deleterious substance on any
21 public property ~~or~~, on any private property of another without
22 consent of the property owner or on his or her own private property
23 in violation of any county or state zoning or public health
24

1 regulations shall, upon conviction, 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)~~ Five Hundred Dollars (\$500.00)
6 nor more than Five Thousand Dollars (\$5,000.00) or by imprisonment
7 in the county jail for not more than thirty (30) days, or by both
8 such fine and imprisonment.

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

21 D. During a burn ban declared by the Governor, any person
22 convicted of violating the provisions of subsection A of this
23 section with any flaming or glowing substances, or any substance
24 which may cause a fire shall be punished by a fine of not less than

1 Four Thousand Dollars (\$4,000.00) nor more than Ten Thousand Dollars
2 (\$10,000.00) or by imprisonment in the county jail for not more than
3 one hundred twenty (120) days, or by both such fine and
4 imprisonment. The penalties collected from the payment of the
5 citations shall, after deduction of court costs, be paid to the fire
6 department of the district in which the flaming or glowing substance
7 was discarded. Any person violating the provisions of this
8 subsection shall be liable for all damages caused by the violation.
9 Damages shall be recoverable in any court of competent jurisdiction.

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

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

1 discretion, deems appropriate. The dates, times, and locations of
2 such activities shall be scheduled by the sheriff pursuant to the
3 order of the court in such a manner as not to interfere with the
4 employment or family responsibilities of the person.

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

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

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

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

3 J. Notwithstanding the provisions of subsection 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 of not to exceed less
8 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
9 Dollars (\$5,000.00). The penalties collected from the payment of
10 such citations shall not include court costs and shall be divided as
11 follows:

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

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

21 K. The amount of bail for littering offenses specified in
22 Section 1753.3 of this title and for trash dumping offenses
23 specified in this section shall be the amount of fine specified in
24 each statute plus costs including any penalty assessment, as well as

1 costs incurred in Section 1313.3 of Title 20 of the Oklahoma
2 Statutes.

3 SECTION 4. This act shall become effective November 1, 2019.

4 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
5 April 1, 2019 - DO PASS
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