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February 24, 2020

By: Kidd of the Senate

and

West (Kevin) of the House

An Act relating to crimes and punishments; amending 21 O.S. 2011, Section 1761.1, as last amended by Section 3, Chapter 40, O.S.L. 2019 (21 O.S. Supp. 2019, Section 1761.1), which relates to penalties for dumping of trash on public or private property; requiring certain identification; amending 22 O.S. 2011, Section 1334, which relates to rewards and claims for reporting littering upon highways; modifying certain responsibility; allowing assessment; setting limit on allowable assessment; providing certain discretion; 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 last amended by Section 3, Chapter 40, O.S.L. 2019 (21 O.S. Supp. 2019, 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, on any private property of another without consent of the property owner or on his or her own private property in

1 violation of any county or state zoning or public health regulations
2 shall, upon conviction, be deemed guilty of a 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 Five Hundred Dollars (\$500.00) 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 G. In addition to the penalty prescribed in subsection B of
5 this section and the restitution prescribed in subsection F of this
6 section, the court may order the defendant to pay into the reward
7 fund as prescribed in Section 1334 of Title 22 of the Oklahoma
8 Statutes an amount not to exceed Two Thousand Dollars (\$2,000.00).

9 H. The discovery of two or more items which have been dropped,
10 dumped, deposited, discarded, placed, or thrown at one location and
11 which identify an individual person, or which bear a common address
12 in a form which tends to identify the latest owner of the items
13 shall create a rebuttable presumption that any competent person
14 residing at such address committed the unlawful act. The discovery
15 or use of such evidence shall not be sufficient to qualify for the
16 reward provided in Section 1334 of Title 22 of the Oklahoma
17 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 less than Five
8 Hundred Dollars (\$500.00) nor more than Five Thousand Dollars
9 (\$5,000.00). The penalties collected from the payment of such
10 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 2. AMENDATORY 22 O.S. 2011, Section 1334, is
4 amended to read as follows:

5 Section 1334. A. The boards of county commissioners of
6 counties and the governing bodies of municipalities may offer and
7 pay a reward, from funds set aside for that purpose, in an amount
8 not to exceed fifty percent (50%) of the fine imposed, for the
9 arrest and conviction or for evidence leading to the arrest and
10 conviction of any person who violates the provisions of ~~Sections~~
11 Section 1753.3 or 1761.1 of Title 21 of the Oklahoma Statutes.

12 B. The ~~board of county commissioners or~~ court clerk of each
13 county shall and the governing body of the municipality may create
14 and maintain a reward fund in the county or municipal treasury which
15 shall be a revolving fund not subject to fiscal year limitations,
16 from which to pay the rewards provided for in subsection A of this
17 section, and to offset the cost of any special enforcement programs
18 originated by any law enforcement agency responsible for the arrest
19 or prosecution of any person who violates the provisions of ~~Sections~~
20 Section 1753.3 or 1761.1 of Title 21 of the Oklahoma Statutes.

21 These costs may include, but not be limited to, the posting of signs
22 along the state's highways advising motorists of the fines for
23 littering or illegal dumping.

1 C. The board of county commissioners may provide for the
2 publication, advertisement and countywide distribution to the public
3 of information as to the reward program specified by this section.

4 D. Claims for rewards shall be on forms provided by the county
5 or municipality and shall be submitted to the prosecuting attorney
6 of the county or municipality no later than thirty (30) days after
7 sentencing of the defendant. The prosecuting attorney shall
8 investigate the validity of the claim and make a nonbinding written
9 recommendation to the board of county commissioners or governing
10 body of the municipality.

11 E. All claims relating to a conviction shall be considered
12 together at the next regular meeting of the board of county
13 commissioners or governing body of the municipality following
14 receipt of the prosecuting attorney's report.

15 F. In determining the amount of the reward, the board of county
16 commissioners or the governing body of the municipality shall have
17 sole discretion to honor or deny the claim, but shall consider:

- 18 1. The severity of the offense;
- 19 2. The size of the fine imposed;
- 20 3. The number of persons claiming a reward and the degree to
21 which each claimant was responsible for the arrest or conviction;
- 22 4. The burden, if any, incurred by the claimant including cost
23 to appear at trial; and
24

1 5. Other factors which the board or governing body deems
2 appropriate.

3 G. No reward shall be authorized and no debt shall accrue to
4 the county or municipality upon the depletion of the reward fund
5 authorized by this section.

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

8 I. Full-time peace officers of this state or of any county or
9 municipality within this state shall not be eligible for the reward
10 provided by this section.

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

16 K. Courts may assess payment into the reward fund for criminal
17 violations of environmental statutes including, but not limited to,
18 Section 2-10-301, 2-5-116 and 2-6-206 of Title 27A of the Oklahoma
19 Statutes. Such payment shall not exceed the maximum possible
20 criminal fine for such violations.

21 L. The identity of an individual who reports a littering
22 complaint to law enforcement shall remain anonymous. Disclosure of
23 information and identities of informants will be at the discretion
24 of the district attorney and presiding judge.

SECTION 3. This act shall become effective November 1, 2020.

COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
February 24, 2020 - DO PASS