

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL NO.672

By: Kidd

6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending
8 21 O.S. 2011, Section 1761.1, as last amended by
9 Section 1, Chapter 119, O.S.L. 2018 (21 O.S. Supp.
10 2018, Section 1761.1), which relates to penalties for
11 dumping of trash on public or private property;
12 modifying allowable penalty; and providing an
13 effective date.

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

15 SECTION 1. 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 shall be deemed guilty of a
23 misdemeanor.

24 B. Any person convicted of violating the provisions of
subsection A of this section shall be punished by a fine of not less

1 than ~~Two Hundred Dollars (\$200.00)~~ Five Hundred Dollars (\$500.00)
2 nor more than Five Thousand Dollars (\$5,000.00) or by imprisonment
3 in the county jail for not more than thirty (30) days, or by both
4 such fine and imprisonment.

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

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

1 citations shall, after deduction of court costs, be paid to the fire
2 department of the district in which the flaming or glowing substance
3 was discarded. Any person violating the provisions of this
4 subsection shall be liable for all damages caused by the violation.
5 Damages shall be recoverable in any court of competent jurisdiction.

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

13 F. In addition to the penalty prescribed by subsection B of
14 this section, the court shall direct the person to make restitution
15 to the property owner affected; to remove and properly dispose of
16 the garbage, trash, waste, rubbish, refuse, or debris from the
17 property; to pick up, remove, and properly dispose of garbage,
18 trash, waste, rubbish, refuse, debris, and other nonhazardous
19 deleterious substances from public property; or perform community
20 service or any combination of the foregoing which the court, in its
21 discretion, deems appropriate. The dates, times, and locations of
22 such activities shall be scheduled by the sheriff pursuant to the
23 order of the court in such a manner as not to interfere with the
24 employment or family responsibilities of the person.

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

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

14 I. Any person may report a violation of this section, if
15 committed in his or her presence, to an officer of the State Highway
16 Patrol, a county sheriff or deputy, a municipal law enforcement
17 officer or any other peace officer in this state. The peace officer
18 shall then conduct an investigation into the allegations, if
19 warranted. If a violation of this section has in fact been
20 committed, and the peace officer has reasonable cause to believe a
21 particular person or persons have committed the violation, a report
22 shall be filed with the district attorney for prosecution.

23 J. Notwithstanding the provisions of subsection I of this
24 section, any peace officer of this state or of any political
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1 subdivision of this state may issue a state traffic citation to any
2 person committing a violation of subsection A of this section. Such
3 state traffic citation shall be in an amount ~~not to exceed Five~~
4 ~~Hundred Dollars (\$500.00)~~ not less than Five Hundred Dollars
5 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00). The
6 penalties collected from the payment of such citations shall not
7 include court costs and shall be divided as follows:

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

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

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

SECTION 2. This act shall become effective November 1, 2019.

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