

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 722

By: Kidd

AS INTRODUCED

An Act relating to crime and punishment; amending 21 O.S. 2011, Section 1761.1, as last amended by Section 3, Chapter 40, O.S.L. 2019 (21 O.S. Supp. 2020, Section 1761.1), which relates to penalties for dumping of trash on property; modifying fine; 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. 2020, 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 violation of any county or state zoning or public health regulations shall, upon conviction, be deemed guilty of a misdemeanor.

1 B. Any person convicted of violating the provisions of
2 subsection A of this section shall be punished by a fine of not less
3 than ~~Five Hundred Dollars (\$500.00)~~ Seven Hundred Fifty Dollars
4 (\$750.00) nor more than Five Thousand Dollars (\$5,000.00) or by
5 imprisonment in the county jail for not more than thirty (30) days,
6 or by both such fine and imprisonment.

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

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

1 one hundred twenty (120) days, or by both such fine and
2 imprisonment. The penalties collected from the payment of the
3 citations shall, after deduction of court costs, be paid to the fire
4 department of the district in which the flaming or glowing substance
5 was discarded. Any person violating the provisions of this
6 subsection shall be liable for all damages caused by the violation.
7 Damages shall be recoverable in any court of competent jurisdiction.

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

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

1 order of the court in such a manner as not to interfere with the
2 employment or family responsibilities of the person.

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

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

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

1 J. Notwithstanding the provisions of subsection I of this
2 section, any peace officer of this state or of any political
3 subdivision of this state may issue a state traffic citation to any
4 person committing a violation of subsection A of this section. Such
5 state traffic citation shall be in an amount of not less than ~~Five~~
6 ~~Hundred Dollars (\$500.00)~~ Seven Hundred Fifty Dollars (\$750.00) nor
7 more than Five Thousand Dollars (\$5,000.00). The penalties
8 collected from the payment of such citations shall not include court
9 costs and shall be divided as follows:

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

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

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

SECTION 2. This act shall become effective November 1, 2021.

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