

By Senator Dawson

30-1118-02

1 A bill to be entitled
 2 An act relating to the Florida Litter Law;
 3 amending s. 403.413, F.S.; requiring that the
 4 community service imposed for certain
 5 violations be performed in specified areas;
 6 providing an effective date.

8 Be It Enacted by the Legislature of the State of Florida:

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 10 Section 1. Subsection (6) of section 403.413, Florida
 11 Statutes, is amended to read:

12 403.413 Florida Litter Law.--

13 (6) PENALTIES; ENFORCEMENT.--

14 (a) Any person who dumps litter in violation of
 15 subsection (4) in an amount not exceeding 15 pounds in weight
 16 or 27 cubic feet in volume and not for commercial purposes is
 17 guilty of a noncriminal infraction, punishable by a civil
 18 penalty of \$50. In addition, the court may require the
 19 violator to pick up litter or perform other labor commensurate
 20 with the offense committed.

21 (b) Any person who dumps litter in violation of
 22 subsection (4) in an amount exceeding 15 pounds in weight or
 23 27 cubic feet in volume, but not exceeding 500 pounds in
 24 weight or 100 cubic feet in volume and not for commercial
 25 purposes is guilty of a misdemeanor of the first degree,
 26 punishable as provided in s. 775.082 or s. 775.083. In
 27 addition, the court shall require the violator to pick up
 28 litter or perform other community service in the community,
 29 area, or neighborhood where the violation occurred,
 30 commensurate with the offense committed. Further, if the
 31 violation involves the use of a motor vehicle, upon a finding

1 of guilt, whether or not adjudication is withheld or whether
2 imposition of sentence is withheld, deferred, or suspended,
3 the court shall forward a record of the finding to the
4 Department of Highway Safety and Motor Vehicles, which shall
5 record a penalty of three points on the violator's driver's
6 license pursuant to the point system established by s. 322.27.

7 (c) Any person who dumps litter in violation of
8 subsection (4) in an amount exceeding 500 pounds in weight or
9 100 cubic feet in volume or in any quantity for commercial
10 purposes, or dumps litter which is a hazardous waste as
11 defined in s. 403.703, is guilty of a felony of the third
12 degree, punishable as provided in s. 775.082 or s. 775.083.

13 In addition, the court may order the violator to:

14 1. Remove or render harmless the litter that he or she
15 dumped in violation of this section;

16 2. Repair or restore property damaged by, or pay
17 damages for any damage arising out of, his or her dumping
18 litter in violation of this section; or

19 3. Perform public service relating to the removal of
20 litter dumped in violation of this section or to the
21 restoration of an area polluted by litter dumped in violation
22 of this section.

23 4. Perform community service relating to
24 beautification of the general area where the dumping occurred.

25 (d) A court may enjoin a violation of this section.

26 (e) A motor vehicle, vessel, aircraft, container,
27 crane, winch, or machine used to dump litter that exceeds 500
28 pounds in weight or 100 cubic feet in volume is declared
29 contraband and is subject to forfeiture in the same manner as
30 provided in ss. 932.703 and 932.704.

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1 (f) If a person sustains damages arising out of a
2 violation of this section that is punishable as a felony, a
3 court, in a civil action for such damages, shall order the
4 person to pay the injured party threefold the actual damages
5 or \$200, whichever amount is greater. In addition, the court
6 shall order the person to pay the injured party's court costs
7 and attorney's fees. A final judgment rendered in a criminal
8 proceeding against a defendant under this section estops the
9 defendant from asserting any issue in a subsequent civil
10 action under this paragraph which he or she would be estopped
11 from asserting if such judgment were rendered in the civil
12 action unless the criminal judgment was based upon a plea of
13 no contest or nolo contendere.

14 (g) For the purposes of this section, if a person
15 dumps litter or raw human waste from a commercial vehicle,
16 that person is presumed to have dumped the litter or raw human
17 waste for commercial purposes.

18 (h) In the criminal trial of a person charged with
19 violating this section, the state does not have the burden of
20 proving that the person did not have the right or authority to
21 dump the litter or raw human waste or that litter or raw human
22 waste dumped on private property causes a public nuisance. The
23 defendant has the burden of proving that he or she had
24 authority to dump the litter or raw human waste and that the
25 litter or raw human waste dumped does not cause a public
26 nuisance.

27 (i) It shall be the duty of all law enforcement
28 officers to enforce the provisions of this section.

29 (j) Any person who violates the provisions of
30 subsection (5) is guilty of a misdemeanor of the second
31 degree, punishable as provided in s. 775.082 or s. 775.083;

1 provided, however, that any person who dumps more than 500
2 pounds or more than 100 cubic feet of raw human waste, or who
3 dumps any quantity of such waste for commercial purposes, is
4 guilty of a felony of the third degree, punishable as provided
5 in paragraph (c).

6 Section 2. This act shall take effect July 1, 2002.

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SENATE SUMMARY

10 Requires that the community service imposed for certain
11 violations be performed in the general area where certain
litter law violations occurred.

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