

By Senator Dawson

29-230-03

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.

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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; or-

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, 2003.

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9 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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