

By the Committee on Judiciary; and Senator Dawson

308-2379-03

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A bill to be entitled
An act relating to the Florida Litter Law;
amending s. 403.413, F.S.; clarifying the
exception of dumping litter on private
property; requiring that the community service
imposed for certain violations be performed in
specified areas; providing an effective date.

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

Section 1. Subsections (4) and (6) of section 403.413,
Florida Statutes, are amended to read:

403.413 Florida Litter Law.--

(4) DUMPING LITTER PROHIBITED.--Unless otherwise
authorized by law or permit, it is unlawful for any person to
dump litter in any manner or amount:

(a) In or on any public highway, road, street, alley,
or thoroughfare, including any portion of the right-of-way
thereof, or any other public lands, except in containers or
areas lawfully provided therefor. When any litter is thrown
or discarded from a motor vehicle, the operator or owner of
the motor vehicle, or both, shall be deemed in violation of
this section;

(b) In or on any freshwater lake, river, canal, or
stream or tidal or coastal water of the state, including
canals. When any litter is thrown or discarded from a boat,
the operator or owner of the boat, or both, shall be deemed in
violation of this section; or

(c) In or on any private property, unless prior
consent of the owner has been given and unless such litter by
such person will not cause a public nuisance or be in

1 violation of any other state or local law, rule, or
2 regulation.

3 (6) PENALTIES; ENFORCEMENT.--

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

11 (b) Any person who dumps litter in violation of
12 subsection (4) in an amount exceeding 15 pounds in weight or
13 27 cubic feet in volume, but not exceeding 500 pounds in
14 weight or 100 cubic feet in volume and not for commercial
15 purposes is guilty of a misdemeanor of the first degree,
16 punishable as provided in s. 775.082 or s. 775.083. In
17 addition, the court shall require the violator to pick up
18 litter or perform other community service in the community,
19 area, or neighborhood where the violation occurred,
20 commensurate with the offense committed. Further, if the
21 violation involves the use of a motor vehicle, upon a finding
22 of guilt, whether or not adjudication is withheld or whether
23 imposition of sentence is withheld, deferred, or suspended,
24 the court shall forward a record of the finding to the
25 Department of Highway Safety and Motor Vehicles, which shall
26 record a penalty of three points on the violator's driver's
27 license pursuant to the point system established by s. 322.27.

28 (c) Any person who dumps litter in violation of
29 subsection (4) in an amount exceeding 500 pounds in weight or
30 100 cubic feet in volume or in any quantity for commercial
31 purposes, or dumps litter which is a hazardous waste as

1 defined in s. 403.703, is guilty of a felony of the third
2 degree, punishable as provided in s. 775.082 or s. 775.083.

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

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

6 2. Repair or restore property damaged by, or pay
7 damages for any damage arising out of, his or her dumping
8 litter in violation of this section; ~~or~~

9 3. Perform public service relating to the removal of
10 litter dumped in violation of this section or to the
11 restoration of an area polluted by litter dumped in violation
12 of this section; or-

13 4. Perform community service relating to
14 beautification of the general area where the dumping occurred.

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

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

21 (f) If a person sustains damages arising out of a
22 violation of this section that is punishable as a felony, a
23 court, in a civil action for such damages, shall order the
24 person to pay the injured party threefold the actual damages
25 or \$200, whichever amount is greater. In addition, the court
26 shall order the person to pay the injured party's court costs
27 and attorney's fees. A final judgment rendered in a criminal
28 proceeding against a defendant under this section estops the
29 defendant from asserting any issue in a subsequent civil
30 action under this paragraph which he or she would be estopped
31 from asserting if such judgment were rendered in the civil

1 action unless the criminal judgment was based upon a plea of
2 no contest or nolo contendere.

3 (g) For the purposes of this section, if a person
4 dumps litter or raw human waste from a commercial vehicle,
5 that person is presumed to have dumped the litter or raw human
6 waste for commercial purposes.

7 (h) In the criminal trial of a person charged with
8 violating this section, the state does not have the burden of
9 proving that the person did not have the right or authority to
10 dump the litter or raw human waste or that litter or raw human
11 waste dumped on private property causes a public nuisance. The
12 defendant has the burden of proving that he or she had
13 authority to dump the litter or raw human waste and that the
14 litter or raw human waste dumped does not cause a public
15 nuisance.

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

18 (j) Any person who violates the provisions of
19 subsection (5) is guilty of a misdemeanor of the second
20 degree, punishable as provided in s. 775.082 or s. 775.083;
21 provided, however, that any person who dumps more than 500
22 pounds or more than 100 cubic feet of raw human waste, or who
23 dumps any quantity of such waste for commercial purposes, is
24 guilty of a felony of the third degree, punishable as provided
25 in paragraph (c).

26 Section 2. This act shall take effect July 1, 2003.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 268

Requires that community service imposed for certain violations of Florida Litter Law is to occur in the community, area, or neighborhood where the violation occurred.

Clarifies that litter may not be dumped on private property, unless consent of property owner is obtained, and such litter by such person will not cause a public nuisance or violate any other law or regulation.