

HB 0153

2004

1                                   A bill to be entitled  
 2           An act relating to the Florida Litter Law; amending s.  
 3           403.413, F.S.; revising language that prohibits the  
 4           dumping of litter in or on private property under certain  
 5           circumstances; requiring that the community service  
 6           imposed for certain violations be performed in specified  
 7           areas; providing an effective date.

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

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 11           Section 1. Paragraph (c) of subsection (4) and subsection  
 12           (6) of section 403.413, Florida Statutes, are amended to read:

13           403.413 Florida Litter Law.--

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

17           (c) In or on any private property, unless prior consent of  
 18           the owner has been given and unless the dumping of such litter  
 19           will not cause a public nuisance or otherwise be in violation of  
 20           any other state or local law, rule, or regulation.

21           (6) PENALTIES; ENFORCEMENT.--

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

28           (b) Any person who dumps litter in violation of subsection  
 29           (4) in an amount exceeding 15 pounds in weight or 27 cubic feet  
 30           in volume, but not exceeding 500 pounds in weight or 100 cubic

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31 feet in volume and not for commercial purposes is guilty of a  
 32 misdemeanor of the first degree, punishable as provided in s.  
 33 775.082 or s. 775.083. In addition, the court shall require the  
 34 violator to pick up litter or perform other community service in  
 35 the community, area, or neighborhood where the violation  
 36 occurred commensurate with the offense committed. Further, if  
 37 the violation involves the use of a motor vehicle, upon a  
 38 finding of guilt, whether or not adjudication is withheld or  
 39 whether imposition of sentence is withheld, deferred, or  
 40 suspended, the court shall forward a record of the finding to  
 41 the Department of Highway Safety and Motor Vehicles, which shall  
 42 record a penalty of three points on the violator's driver's  
 43 license pursuant to the point system established by s. 322.27.

44 (c) Any person who dumps litter in violation of subsection  
 45 (4) in an amount exceeding 500 pounds in weight or 100 cubic  
 46 feet in volume or in any quantity for commercial purposes, or  
 47 dumps litter which is a hazardous waste as defined in s.  
 48 403.703, is guilty of a felony of the third degree, punishable  
 49 as provided in s. 775.082 or s. 775.083. In addition, the court  
 50 may order the violator to:

- 51 1. Remove or render harmless the litter that he or she  
 52 dumped in violation of this section;
- 53 2. Repair or restore property damaged by, or pay damages  
 54 for any damage arising out of, his or her dumping litter in  
 55 violation of this section; ~~or~~
- 56 3. Perform public service relating to the removal of  
 57 litter dumped in violation of this section or to the restoration  
 58 of an area polluted by litter dumped in violation of this  
 59 section; or
- 60 4. Perform community service relating to beautification of

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61 the general area where the dumping occurred.

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

63 (e) A motor vehicle, vessel, aircraft, container, crane,  
64 winch, or machine used to dump litter that exceeds 500 pounds in  
65 weight or 100 cubic feet in volume is declared contraband and is  
66 subject to forfeiture in the same manner as provided in ss.  
67 932.703 and 932.704.

68 (f) If a person sustains damages arising out of a  
69 violation of this section that is punishable as a felony, a  
70 court, in a civil action for such damages, shall order the  
71 person to pay the injured party threefold the actual damages or  
72 \$200, whichever amount is greater. In addition, the court shall  
73 order the person to pay the injured party's court costs and  
74 attorney's fees. A final judgment rendered in a criminal  
75 proceeding against a defendant under this section estops the  
76 defendant from asserting any issue in a subsequent civil action  
77 under this paragraph which he or she would be estopped from  
78 asserting if such judgment were rendered in the civil action  
79 unless the criminal judgment was based upon a plea of no contest  
80 or nolo contendere.

81 (g) For the purposes of this section, if a person dumps  
82 litter or raw human waste from a commercial vehicle, that person  
83 is presumed to have dumped the litter or raw human waste for  
84 commercial purposes.

85 (h) In the criminal trial of a person charged with  
86 violating this section, the state does not have the burden of  
87 proving that the person did not have the right or authority to  
88 dump the litter or raw human waste or that litter or raw human  
89 waste dumped on private property causes a public nuisance. The  
90 defendant has the burden of proving that he or she had authority

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91 to dump the litter or raw human waste and that the litter or raw  
92 human waste dumped does not cause a public nuisance.

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

95 (j) Any person who violates the provisions of  
96 subsection(5) is guilty of a misdemeanor of the second degree,  
97 punishable as provided in s. 775.082 or s. 775.083; provided,  
98 however, that any person who dumps more than 500 pounds or more  
99 than 100 cubic feet of raw human waste, or who dumps any  
100 quantity of such waste for commercial purposes, is guilty of a  
101 felony of the third degree, punishable as provided in paragraph  
102 (c).

103 Section 2. This act shall take effect upon becoming a law.