

By Senator Dawson

29-580-04

1 A bill to be entitled
2 An act relating to the Florida Litter Law;
3 amending s. 403.413, F.S.; clarifying an
4 exception to a prohibition against dumping
5 litter on private property; requiring that the
6 community service imposed for certain
7 violations be performed in specified areas;
8 providing an effective date.

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

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

14 403.413 Florida Litter Law.--

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

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

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

30 (c) In or on any private property, unless prior
31 consent of the owner has been given and unless such litter by

1 such person will not cause a public nuisance or be in
2 violation of any other state or local law, rule, or
3 regulation.

4 (6) PENALTIES; ENFORCEMENT.--

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

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

29 (c) Any person who dumps litter in violation of
30 subsection (4) in an amount exceeding 500 pounds in weight or
31 100 cubic feet in volume or in any quantity for commercial

1 purposes, or dumps litter which is a hazardous waste as
2 defined in s. 403.703, is guilty of a felony of the third
3 degree, punishable as provided in s. 775.082 or s. 775.083.

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

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

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

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

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

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

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

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

1 from asserting if such judgment were rendered in the civil
2 action unless the criminal judgment was based upon a plea of
3 no contest or nolo contendere.

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

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

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

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

27 Section 2. This act shall take effect July 1, 2004.
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SENATE SUMMARY

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