

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Government Efficiency Appropriations Committee

BILL: CS/SB 1774

SPONSOR: Government Efficiency Appropriations Committee and Senator Rich

SUBJECT: Florida Litter Law

DATE: April 4, 2005

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|-----------------|-----------|------------------------|
| 1. | <u>Branning</u> | <u>Kiger</u> | <u>EP</u> | <u>Fav/1 amendment</u> |
| 2. | <u>Keating</u> | <u>Johansen</u> | <u>GE</u> | <u>Favorable/CS</u> |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

This bill would increase the fine for a non-criminal infraction of the Florida Litter Law from \$50 to \$100. The \$50 increase in the litter fine shall be deposited into the Solid Waste Management Trust Fund and used for the solid waste management grant program.

This bill substantially amends the following section of the Florida Statutes: 403.413.

II. Present Situation:

Section 403.414, F.S., is Florida's Litter Law. Litter is broadly defined as:

any garbage; rubbish; trash; refuse; can; bottle; box; container; paper; tobacco product; tire; appliance; mechanical equipment or part; building or construction material; tool; machinery; wood; motor vehicle or motor vehicle part; vessel; aircraft; farm machinery or equipment; sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility, or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.¹

As provided in s. 403.414(4), F.S., unless otherwise authorized by law or permit, it is unlawful to dump litter in any manner or amount:

- 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. Any litter thrown or discarded from a motor vehicle is a violation of this section.

¹ s. 403.413(2)(a), F.S.

- In or on any freshwater lake, river, canal, or stream or tidal or coastal water of the state, including canals. Any litter thrown or discarded from a boat is a violation of this section.
- In or on any private property, unless prior consent of the owner has been given and unless such litter will not cause a public nuisance or be in violation of any other state or local law, rule, or regulation.

The penalties for dumping litter in violation of s. 403.414(4), F.S., depends on the amount of litter that is illegally dumped or discarded.

Any person who dumps litter in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes² is guilty of non-criminal infraction, punishable by a civil penalty of \$50. In addition, the court may require the violator to pick up litter or perform other labor commensurate with the offense committed.

Any person who dumps litter in an amount exceeding 15 pounds in weight or 27 cubic feet in volume, but not exceeding 500 pounds in weight or 100 cubic feet in volume and not for commercial purposes is guilty of a misdemeanor of the first degree. The court shall require the violator to pick up litter or perform other community service commensurate with the offense committed. Further, if the violation involves the use of a motor vehicle, the court shall forward a record of the finding to the Department of Highway Safety and Motor Vehicles to record a penalty of three points on the violator's driver's license.

Any person who dumps litter in an amount exceeding 500 pounds in weight or 100 cubic feet in volume or in any quantity for commercial purposes, or dumps litter which is a hazardous waste is guilty of a felony of the third degree. In addition, the court may order the violator to remove or render harmless the litter; repair or restore property damaged by, or pay damages for any damage arising out the litter dumping violation; or perform public service relating to the removal of the litter dumped or restoration of an area polluted by litter dumped.

It is the duty of all law enforcement officers to enforce the provisions of the Litter Law. For purposes of the Litter Law, "law enforcement officer" means any officer of the Florida Highway Patrol, a county sheriff's department, a municipal law enforcement department, a law enforcement department of any other political subdivision, the Department of Environmental Protection, or the Fish and Wildlife Conservation Commission. Also, for purposes of the Litter Law, "law enforcement officer" means any employee of a county or municipal park or recreation department designated by the department head as a litter enforcement officer.

The statute does not specify where the \$50 civil penalty for littering is deposited or what the revenues are to be used for. Such revenues currently go into the general fund of the local government issuing the citation.

Section 403.709, F.S., creates the Solid Waste Management Trust Fund, to be administered by the Department of Environmental Protection. Section 403.7095, F.S., provides for the solid waste management grant program. The solid waste management grant program provides recycling grants to local governments.

²"Commercial purposes" means for the purpose of economic gain.

III. Effect of Proposed Changes:

Section 1. Amends s. 403.413(6)(a), F.S., increasing the penalty for a litter violation of an amount not exceeding 15 pounds in weight or 27 cubic feet in volume from \$50 to \$100. The \$50 increase in the litter fine shall be deposited into the Solid Waste Management Trust Fund and used for the solid waste management grant program pursuant to s. 403.7095, F.S.

Section 2. The bill shall take effect July 1, 2005.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

As a result of the \$50 increase in the fine for littering, the Solid Waste Management Trust Fund will realize an increase in revenues. The amount of the increase in revenue is indeterminate because it is contingent on how many violations are issued. There is no historical data available from counties on the number of litter violations issued under s. 403.413(6)(a), F.S.

B. Private Sector Impact:

Those persons cited for littering would experience an increase in the fines they would have to pay. Currently, persons who casually litter such as throwing trash, bottles, and cans out of vehicles, are subject to a \$50 fine if caught. This bill increases that amount to \$100.

C. Government Sector Impact:

The solid waste management grant program provides recycling grants to local governments. Deposit of the \$50 increase in the fine for littering into the Solid Waste Management Trust Fund and earmarking such funds to be used for the solid waste management grant program, will enable the Department of Environmental Protection to issue more recycling grants to local governments.

Litter is a growing problem for cities and counties. The enforcement of litter violations is dependent on the number of personnel available to cite persons for littering. The increase in the fine won't necessarily lead to an increase in persons cited for littering; however, the increased fine may deter some littering activities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

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