

The Florida Senate
PROFESSIONAL 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: Environmental Preservation and Conservation Committee

BILL: CS/SB 1728

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Rich

SUBJECT: Littering

DATE: March 29, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Branning</u>	<u>Kiger</u>	<u>EP</u>	<u>Fav/CS</u>
2.	_____	_____	<u>CJ</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute amends Florida’s litter law to provide that any labor associated with picking up litter or performing other community service in connection with a violation of the litter law must be performed in the same municipality, or county if the violation is committed in an unincorporated area, as the offense committed.

This committee substitute amends s. 403.413, F.S.

II. Present Situation:

Section 403.413, F.S., is Florida’s Litter Law. Litter is broadly defined as:

(A)ny 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. 403.413(4), F.S., unless otherwise authorized by law or permit, it is unlawful to dump litter in any manner or amount:

¹ s. 403.413(2)(a), F.S.

- 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.
- 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. 403.413(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 noncriminal infraction, punishable by a civil penalty of \$100, from which \$50 shall be deposited into the Solid Waste Management Trust Fund. 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.

III. Effect of Proposed Changes:

The committee substitute amends s. 403.413, F.S., to provide that, for persons found guilty of littering and who have been ordered to pick up litter or perform other community service

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

commensurate with the offense, such services must be performed within the same municipality, or county if the violation is committed in an unincorporated areas, as the offense committed.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This committee substitute does not require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by s.18, Art. VII, State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons cited for littering and ordered by the court to pick up litter or perform other labor commensurate with the offense, would now have to pick up the litter or perform the community service in the municipality or county where the offense occurred. This could affect those violators that are cited away from home and traveling. They would be required to return to the area where the offense occurred to perform the public service. Depending on how far away from home the violator was when the offense occurred, significant costs could be incurred by the violator in addition to any fines imposed. Travel and gas costs could be incurred. In some cases, if the distance is great, an overnight stay may be required.

C. Government Sector Impact:

There should be no significant additional cost to the local governments.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
