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CS/CS/HB 1367

2023 Legislature

1  
 2 An act relating to unlawful dumping; amending s.  
 3 403.413, F.S.; revising the definitions of the terms  
 4 "dump" and "litter"; defining the term "water control  
 5 district"; specifying that it is unlawful to dump  
 6 litter in or on any water control district property or  
 7 canal right-of-way without specified consent;  
 8 providing that when litter is thrown or discarded from  
 9 a boat, the operator or owner, or both, are in  
 10 violation of certain provisions; requiring a water  
 11 control district board of directors member or district  
 12 manager to report an unlawful dumping to the  
 13 appropriate law enforcement agencies; authorizing law  
 14 enforcement officers to enter water control district  
 15 property under certain circumstances; amending s.  
 16 810.011, F.S.; revising the definition of the term  
 17 "posted land" to include land owned by a water control  
 18 district which has no trespassing signs placed at  
 19 specified points; reenacting ss. 403.4135(1) and  
 20 810.12(6), F.S., relating to litter receptacles and  
 21 prima facie evidence of trespass, respectively, to  
 22 incorporate the amendment made to s. 403.413, F.S., in  
 23 references thereto; providing an effective date.

24  
 25 Be It Enacted by the Legislature of the State of Florida:

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26  
 27 Section 1. Paragraphs (d) and (f) of subsection (2),  
 28 subsection (4), and paragraph (i) of subsection (6) of section  
 29 403.413, Florida Statutes, are amended, and paragraph (j) is  
 30 added to subsection (2) of that section, to read:

31 403.413 Florida Litter Law.—

32 (2) DEFINITIONS.—As used in this section:

33 (d) "Dump" means to dump, throw, discard, place, deposit,  
 34 drain, discharge, or dispose of.

35 (f) "Litter" means any personal property; garbage;  
 36 rubbish; trash; refuse; can; bottle; box; container; paper;  
 37 tobacco product; pharmaceutical of any kind; tire; household  
 38 item; shed; appliance; mechanical equipment or part; building or  
 39 construction material; tool; machinery; wood; motor vehicle or  
 40 motor vehicle part, including a truck, trailer, or motor home;  
 41 vessel; aircraft; farm machinery or equipment; sludge from a  
 42 waste treatment facility, water supply treatment plant, or air  
 43 pollution control facility; or substance in any form resulting  
 44 from domestic, industrial, commercial, mining, agricultural, or  
 45 governmental operations, but excluding permitted, regulated, or  
 46 authorized drainage, pumping, or runoff of surface water or  
 47 stormwater.

48 (j) "Water control district" means a water control  
 49 district that exists pursuant to chapter 298 or was created by  
 50 special act of the Legislature.

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51 (4) DUMPING LITTER PROHIBITED.—Unless otherwise authorized  
 52 by law or permit, it is unlawful for any person to dump litter  
 53 in any manner or amount in or on any of the following areas:

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

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

66 (c) Any water control district property or canal right-of-  
 67 way, unless the district board of directors or the district  
 68 manager or his or her designee has given prior consent. When any  
 69 litter is thrown or discarded from a boat, the operator or owner  
 70 of the boat, or both, are in violation of this section.

71 (d) ~~In or on~~ Any private property, unless the owner has  
 72 given prior consent ~~of the owner has been given~~ and unless the  
 73 dumping of such litter by such person will not cause a public  
 74 nuisance or otherwise be in violation of any other state or  
 75 local law, rule, or regulation.

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76 (6) PENALTIES; ENFORCEMENT.—

77 (i) It ~~is shall~~ be the duty of all law enforcement  
 78 officers to enforce ~~the provisions of~~ this section. If a member  
 79 of a water control district board of directors or a district  
 80 manager discovers that a person has committed unlawful dumping  
 81 in violation of paragraph (4)(c), he or she must report the  
 82 incident to the appropriate law enforcement agency with  
 83 jurisdiction over the district. A law enforcement officer may  
 84 enter any district canal right-of-way, property, or facility to  
 85 respond to such an incident.

86 Section 2. Paragraph (a) of subsection (5) of section  
 87 810.011, Florida Statutes, is amended to read:

88 810.011 Definitions.—As used in this chapter:

89 (5) (a) "Posted land" is ~~that~~ land upon which any of the  
 90 following are placed:

91 1. Signs ~~are~~ placed not more than 500 feet apart along~~7~~  
 92 and at each corner of~~7~~ the boundaries of the land or, for land  
 93 owned by a water control district that exists pursuant to  
 94 chapter 298 or was created by special act of the Legislature,  
 95 signs placed at or near the intersection of any district canal  
 96 right-of-way and a road right-of-way, which, upon which signs  
 97 ~~there appears~~ prominently display~~7~~ in letters of not less than 2  
 98 inches in height~~7~~ the words "no trespassing" and ~~in addition~~  
 99 ~~thereto~~ the name of the owner, lessee, or occupant of the said  
 100 land. ~~The said~~ signs must ~~shall~~ be placed along the boundary

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101 line of posted land in a manner and in such position as to be  
 102 clearly noticeable from outside the boundary line; or

103 2.a. Conspicuous no trespassing notice is painted on trees  
 104 or posts on the property, provided that the notice is:

105 (I) Painted in an international orange color and  
 106 displaying the stenciled words "No Trespassing" in letters no  
 107 less than 2 inches high and 1 inch wide either vertically or  
 108 horizontally;

109 (II) Placed so that the bottom of the painted notice is  
 110 not less than 3 feet from the ground or more than 5 feet from  
 111 the ground; and

112 (III) Placed at locations that are readily visible to any  
 113 person approaching the property and no more than 500 feet apart  
 114 on agricultural land.

115 b. When a landowner uses the painted no trespassing  
 116 posting to identify a no trespassing ~~"no trespassing"~~ area,  
 117 those painted notices must ~~shall~~ be accompanied by signs  
 118 complying with subparagraph 1. and must be placed conspicuously  
 119 at all places where entry to the property is normally expected  
 120 or known to occur.

121 Section 3. For the purpose of incorporating the amendment  
 122 made by this act to section 403.413, Florida Statutes, in a  
 123 reference thereto, subsection (1) of section 403.4135, Florida  
 124 Statutes, is reenacted to read:

125 403.4135 Litter receptacles.—

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126 (1) DEFINITIONS.—As used in this section "litter" and  
 127 "vessel" have the same meanings as provided in s. 403.413.

128 Section 4. For the purpose of incorporating the amendment  
 129 made by this act to section 403.413, Florida Statutes, in  
 130 references thereto, subsection (6) of section 810.12, Florida  
 131 Statutes, is reenacted to read:

132 810.12 Unauthorized entry on land; prima facie evidence of  
 133 trespass.—

134 (6) The unlawful dumping by any person of any litter in  
 135 violation of s. 403.413(4) is prima facie evidence of the  
 136 intention of such person to commit an act of trespass. If any  
 137 waste that is dumped in violation of s. 403.413(4) is discovered  
 138 to contain any article, including, but not limited to, a letter,  
 139 bill, publication, or other writing that displays the name of a  
 140 person thereon, addressed to such person or in any other manner  
 141 indicating that the article last belonged to such person, that  
 142 discovery raises a mere inference that the person so identified  
 143 has violated this section. If the court finds that the discovery  
 144 of the location of the article is corroborated by the existence  
 145 of an independent fact or circumstance which, standing alone,  
 146 would constitute evidence sufficient to prove a violation of s.  
 147 403.413(4), such person is rebuttably presumed to have violated  
 148 that section.

149 Section 5. This act shall take effect October 1, 2023.