

An Act

ENROLLED HOUSE
BILL NO. 1110

By: West (Kevin) of the House

and

Kidd and Weaver of the
Senate

An Act relating to crimes and punishments; amending 21 O.S. 2011, Sections 1205 and 1206, which relate to dumping trash; expanding scope of crime to include certain property; modifying penalty; amending 21 O.S. 2011, Section 1761.1, as last amended by Section 1, Chapter 119, O.S.L. 2018 (21 O.S. Supp. 2018, Section 1761.1), which relates to penalties for dumping trash; expanding scope of crime to include certain property; modifying range of penalties for traffic citation; and providing an effective date.

SUBJECT: Dumping of trash

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1205, is amended to read as follows:

Section 1205. It shall be unlawful for any person to throw or leave or deposit garbage, tin cans, junk, rubbish or refuse and other items and matters commonly referred to as trash within one hundred (100) yards of any state highway or any county road or the occupied dwelling of another, except when the placement of such materials is along a collection route for the specific intent and purpose of scheduled collection and transportation to a recycling or disposal facility serving the area. Provided, however, that any city or town operating or desiring to operate a solid waste disposal site within the distance above prescribed may establish said solid waste disposal site when said solid waste disposal site is approved by the Oklahoma Department of Environmental Quality.

SECTION 2. AMENDATORY 21 O.S. 2011, Section 1206, is amended to read as follows:

Section 1206. Any person or any officer of any city or town violating any of the provisions of this act shall, upon conviction, be fined not ~~more~~ less than ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00), or be imprisoned in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

SECTION 3. AMENDATORY 21 O.S. 2011, Section 1761.1, as last amended by Section 1, Chapter 119, O.S.L. 2018 (21 O.S. Supp. 2018, Section 1761.1), is amended to read as follows:

Section 1761.1 A. Any person who deliberately places, throws, drops, dumps, deposits, or discards any garbage, trash, waste, rubbish, refuse, debris, or other deleterious substance on any public property ~~or~~, on any private property of another without consent of the property owner or on his or her own private property in violation of any county or state zoning or public health regulations shall, upon conviction, be deemed guilty of a misdemeanor.

B. Any person convicted of violating the provisions of subsection A of this section shall be punished by a fine of not less than ~~Two Hundred Dollars (\$200.00)~~ Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

C. Any person convicted of violating the provisions of subsection A of this section with any flaming or glowing substance, or any substance which may cause a fire shall be punished by a fine of not less than Two Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars (\$5,000.00) or by imprisonment in the county jail for not more than sixty (60) days, or by both such fine and imprisonment. The penalties collected from the payment of the citations shall, after deduction of court costs, be paid to the fire department of the district in which the flaming or glowing substance was discarded. Any person violating the provisions of this subsection shall be liable for all damages caused by the violation. Damages shall be recoverable in any court of competent jurisdiction.

D. During a burn ban declared by the Governor, any person convicted of violating the provisions of subsection A of this section with any flaming or glowing substances, or any substance which may cause a fire shall be punished by a fine of not less than

Four Thousand Dollars (\$4,000.00) nor more than Ten Thousand Dollars (\$10,000.00) or by imprisonment in the county jail for not more than one hundred twenty (120) days, or by both such fine and imprisonment. The penalties collected from the payment of the citations shall, after deduction of court costs, be paid to the fire department of the district in which the flaming or glowing substance was discarded. Any person violating the provisions of this subsection shall be liable for all damages caused by the violation. Damages shall be recoverable in any court of competent jurisdiction.

E. Any person convicted of violating the provisions of subsection A of this section with any item of furniture, or item that exceeds fifty (50) pounds, shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Six Thousand Five Hundred Dollars (\$6,500.00) or by imprisonment in the county jail for not more than sixty (60) days, or by both such fine and imprisonment.

F. In addition to the penalty prescribed by subsection B of this section, the court shall direct the person to make restitution to the property owner affected; to remove and properly dispose of the garbage, trash, waste, rubbish, refuse, or debris from the property; to pick up, remove, and properly dispose of garbage, trash, waste, rubbish, refuse, debris, and other nonhazardous deleterious substances from public property; or perform community service or any combination of the foregoing which the court, in its discretion, deems appropriate. The dates, times, and locations of such activities shall be scheduled by the sheriff pursuant to the order of the court in such a manner as not to interfere with the employment or family responsibilities of the person.

G. In addition to the penalty prescribed in subsection B of this section and the restitution prescribed in subsection F of this section, the court may order the defendant to pay into the reward fund as prescribed in Section 1334 of Title 22 of the Oklahoma Statutes an amount not to exceed Two Thousand Dollars (\$2,000.00).

H. The discovery of two or more items which have been dropped, dumped, deposited, discarded, placed, or thrown at one location and which bear a common address in a form which tends to identify the latest owner of the items shall create a rebuttable presumption that any competent person residing at such address committed the unlawful act. The discovery or use of such evidence shall not be sufficient to qualify for the reward provided in Section 1334 of Title 22 of the Oklahoma Statutes.

I. Any person may report a violation of this section, if committed in his or her presence, to an officer of the State Highway Patrol, a county sheriff or deputy, a municipal law enforcement officer or any other peace officer in this state. The peace officer shall then conduct an investigation into the allegations, if warranted. If a violation of this section has in fact been committed, and the peace officer has reasonable cause to believe a particular person or persons have committed the violation, a report shall be filed with the district attorney for prosecution.

J. Notwithstanding the provisions of subsection I of this section, any peace officer of this state or of any political subdivision of this state may issue a state traffic citation to any person committing a violation of subsection A of this section. Such state traffic citation shall be in an amount of not to exceed less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00). The penalties collected from the payment of such citations shall not include court costs and shall be divided as follows:

1. One-half (1/2) shall be paid into the reward fund created pursuant to Section 1334 of Title 22 of the Oklahoma Statutes; provided that if the citation is issued by a peace officer of a county of this state, the funds allocated by this paragraph shall be transferred to the general fund of the county of the law enforcement officer issuing the citation; and

2. One-half (1/2) shall be paid into the sheriff's service fee account for that county to be used for enforcing provisions of this section.

K. The amount of bail for littering offenses specified in Section 1753.3 of this title and for trash dumping offenses specified in this section shall be the amount of fine specified in each statute plus costs including any penalty assessment, as well as costs incurred in Section 1313.3 of Title 20 of the Oklahoma Statutes.

SECTION 4. This act shall become effective November 1, 2019.

Passed the House of Representatives the 6th day of March, 2019.

Presiding Officer of the House
of Representatives

Passed the Senate the 8th day of April, 2019.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____