

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003

# A Bill

HOUSE BILL 2404

4  
5 By: Representative Borhauer  
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## For An Act To Be Entitled

9 AN ACT TO AMEND THE LITTER CONTROL ACT TO GIVE  
10 ILLEGAL DUMP OFFICERS THE POWER TO ISSUE  
11 CITATIONS FOR LITTERING AND TO EXPAND THE PRIMA  
12 FACIE EVIDENCE FOR LITTERING; TO CLARIFY THE  
13 PROPER DISPOSAL OF SOLID WASTE FROM ILLEGAL DUMPS  
14 AND TO CORRECT REFERENCES TO THE COUNTY COURT;  
15 AND FOR OTHER PURPOSES.  
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## Subtitle

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18 TO GIVE ILLEGAL DUMP OFFICERS THE POWER  
19 TO ISSUE CITATIONS FOR LITTERING AND TO  
20 CLARIFY THE PROPER DISPOSAL OF SOLID  
21 WASTE FROM ILLEGAL DUMPS.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. Arkansas Code § 8-6-409 is amended to read as follows:

27 8-6-409. Prima facie evidence against drivers.

28 (a) If the throwing, dumping, or depositing of litter was done from a  
29 motor vehicle, except a motor bus, it shall be prima facie evidence that the  
30 throwing, dumping, or depositing was done by the driver of the motor vehicle.

31 (b) If the unlawful dropping, depositing, discarding, or otherwise  
32 disposing of the litter occurs from a motor vehicle that is a pickup truck  
33 and the litter blows or drops onto the roadway from the truck's open bed, it  
34 is prima facie evidence that the dropping, depositing, discarding, or other  
35 disposing of the litter was done by the driver of the pickup truck.  
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SECTION 2. Arkansas Code § 8-6-412 is amended to read as follows:  
8-6-412. Enforcement generally.

(a)(1) All Arkansas-certified law enforcement officers shall enforce the provisions of this subchapter.

(2) Illegal dumps control officers licensed and certified in accordance with § 8-6-905 may enforce the provisions of this subchapter.

(b)(1) All of the certified law enforcement officers are empowered to issue citations to or arrest persons violating any provision of this subchapter.

(2)(A) Illegal dumps control officers are empowered to issue citations to persons violating this subchapter.

(B) However, illegal dumps control officers shall not:

(i) Have the powers of arrest;

(ii) Carry firearms; or

(iii) Take any other official law enforcement actions.

(c)(1) All ~~of the~~ certified law enforcement officers may serve and execute all warrants, citations, and other process issued by the courts in enforcing the provisions of this subchapter.

(2) In addition, mailing by registered mail of such process to the person's last known place of residence shall be deemed as personal service upon the person charged.

SECTION 3. Arkansas Code § 8-6-505 is amended to read as follows:  
8-6-505. Proceedings generally.

(a) Any government official or employee or any person who has knowledge of or information of the illegal dumping of solid waste on any public or private property in this state may file a complaint thereof in ~~the county court~~ a court of competent jurisdiction of the county in which the illegal dumping of solid waste has taken place or in the county of residence of the person who is accused of being liable for the illegal dumping of the solid waste.

(b)(1) Upon the filing of a verified complaint, noting on the complaint the person against whom the claim is filed, the ~~county~~ court shall enter a temporary order directing that the accused person remove from the described public or private property the solid waste that has been illegally

1 dumped on the property and properly dispose of the solid waste in a permitted  
 2 landfill or other facility within ten (10) days from the date of the order.

3 (2) The sheriff of the county shall serve the order.

4 (3) Upon the order being served, the accused party shall remove  
 5 the solid waste in question from the public or private property as described  
 6 in the order, shall dispose of the solid waste at a properly permitted solid  
 7 waste transfer station, landfill, recycling center, or incinerator, and shall  
 8 return to the court a disposal receipt from the facility where the solid  
 9 waste was disposed.

10 (4) If the person wishes to challenge the order, the person may  
 11 file a petition challenging the order with the court within ten (10) days  
 12 from the date the order is served.

13 (c)(1) Upon the filing of a petition challenging the order, the court  
 14 shall hold a hearing on it within fourteen (14) days after the filing of the  
 15 petition and shall serve notice upon the accusing party and upon the accused.

16 (2) At the hearing, which may be continued from time to time as  
 17 determined by the ~~county court~~ judge, the court shall hear all evidence and  
 18 testimony and, after hearing it, shall enter an order either dismissing the  
 19 original or temporary order or making the order permanent.

20 (3) The parties represented at the hearing may be represented by  
 21 counsel.

22 (d)(1) If the order is made permanent, the accused party shall, within  
 23 ten (10) days thereafter, cause the solid waste which has been illegally  
 24 dumped on private or public property to be removed therefrom and disposed of  
 25 properly in a permitted landfill or other facility.

26 (2)(A) If, after ten (10) days from the date of the order, the  
 27 person against whom the order is directed has not removed the solid waste  
 28 from the public or private property and properly disposed of it as noted in  
 29 the order, the governmental agency or the owner of the property may cause it  
 30 to be moved and shall file with the ~~county~~ court a verified statement in  
 31 writing of the cost of removal.

32 (B) After reviewing the statement, if the court determines  
 33 it to be reasonable, the court shall enter an order upon the judgment docket  
 34 of the ~~county~~ court of the amount thereof, which shall be a judgment against  
 35 the party against whom the judgment was issued and may be enforced as any  
 36 other judgment.

1 (e) Any party aggrieved by any order of ~~the county court~~ a court of  
 2 competent jurisdiction under this subchapter may appeal therefrom ~~to the~~  
 3 ~~circuit court~~, and if appealed to the circuit court of that jurisdiction, the  
 4 circuit court shall try the cause de novo.

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 6 SECTION 4. Arkansas Code § 8-6-508 is amended to read as follows:

7 8-6-508. Enforcement generally.

8 (a)(1) Illegal dumps control officers are hereby empowered to ensure  
 9 compliance with the provisions of this subchapter by having the right and  
 10 duty to:

11 (A) Inspect suspected illegal dumps;

12 (B) Collect evidence of open dumping and littering and  
 13 present the evidence to the prosecuting attorney or a court of competent  
 14 jurisdiction where the offense was committed; and

15 (C) Issue and serve citations for violations of provisions  
 16 of the Arkansas Solid Waste Management Act, § 8-6-201 et seq., prohibiting  
 17 illegal dumping, subject to exemptions under § 8-6-205 and the agricultural  
 18 exemptions under § 8-6-509, and for violations of the Litter Control Act,  
 19 beginning at § 8-6-401, prohibiting unlawful littering.

20 (2) Citations issued by illegal dumps control officers shall be  
 21 filed in any court having jurisdiction in the county where the offense is  
 22 committed.

23 (3) Citations may be served in person or by mailing a copy of  
 24 the citation by certified mail, restricted delivery, to either the address  
 25 obtained from evidence collected from the illegal dump or to the person's  
 26 last known address. Persons receiving citations shall appear before the  
 27 court named within the citation at the time designation therein.

28 (4) Courts having jurisdiction over citations issued by illegal  
 29 dumps control officers may issue penalties as specified in § 8-6-204(a) and  
 30 § 8-6-404, and may require violators to present signed and dated disposal  
 31 receipts to an illegal dumps control officer as evidence that the solid waste  
 32 has been removed from the illegal dump and properly disposed in a permitted  
 33 landfill or other facility, including a solid waste transfer station,  
 34 recycling center, incinerator, or a scrap yard that buys iron, steel,  
 35 aluminum, and other metals or a permitted waste tire collection center or  
 36 waste tire processing facility.

1 (b) All illegal dumps control officers shall be licensed and certified  
2 in accordance with § 8-6-901 et seq.

3 (c) Illegal dumps control officers shall not have powers of arrest.  
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