

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.
Act 75 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

HOUSE BILL 1068

4
5 By: Representative Borhauer
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7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LITTER CONTROL ACT TO GIVE
10 ILLEGAL DUMPS CONTROL OFFICERS THE POWER TO ISSUE
11 CITATIONS FOR LITTERING; TO CLARIFY THE PROPER
12 DISPOSAL OF SOLID WASTE FROM ILLEGAL DUMPS AND TO
13 CORRECT REFERENCES TO THE COURT OF COMPETENT
14 JURISDICTION; AND FOR OTHER PURPOSES.

Subtitle

15
16 TO GIVE ILLEGAL DUMPS CONTROL OFFICERS
17 THE POWER TO ISSUE CITATIONS FOR
18 LITTERING AND TO CLARIFY THE PROPER
19 DISPOSAL OF SOLID WASTE FROM ILLEGAL
20 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 § 8-6-412 is amended to read as follows:

27 8-6-412. Enforcement generally.

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

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

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

35 (2)(A) Illegal dumps control officers are empowered to issue



1 citations to persons violating this subchapter.

2 (B) However, illegal dumps control officers may not:

3 (i) Have the powers of arrest;

4 (ii) Carry firearms; or

5 (iii) Take any other official law enforcement

6 actions.

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

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

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 14 SECTION 2. Arkansas Code § 8-6-505 is amended to read as follows:

15 8-6-505. Proceedings generally.

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

23 (b)(1) Upon the filing of a verified complaint, noting on the
 24 complaint the person against whom the claim is filed, the ~~county~~ court shall
 25 enter a temporary order directing that the accused person remove from the
 26 described public or private property the solid waste that has been illegally
 27 dumped on the property and properly dispose of the solid waste in a permitted
 28 landfill or other facility within ten (10) days from the date of the order.

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

30 (3) Upon the order being served, the accused party shall:

31 (A) remove ~~Remove~~ the solid waste in question from the
 32 public or private property as described in the order;

33 (B) Dispose of the solid waste at a properly permitted
 34 solid waste transfer station, landfill, recycling center, or incinerator; and

35 (C) Return to the court a disposal receipt from the
 36 facility where the solid waste was disposed.

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

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

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

11 (3) The parties represented at the hearing may be represented by
 12 counsel.

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

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

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

28 (e)(1) Any party aggrieved by any order of ~~the county~~ a court under
 29 this subchapter may appeal therefrom ~~to the circuit court, and.~~

30 (2) If an aggrieved party appeals to the circuit court of
 31 competent jurisdiction, then the circuit court shall try the cause de novo.

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 33 SECTION 3. Arkansas Code § 8-6-508 is amended to read as follows:
 34 8-6-508. Enforcement generally.

35 (a)(1) Illegal dumps control officers are hereby empowered to ensure
 36 compliance with the provisions of this subchapter by having the right and

1 duty to:

2 (A) Inspect suspected illegal dumps;

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

6 (C) Issue and serve citations for violations of provisions
7 of the Arkansas Solid Waste Management Act, § 8-6-201 et seq., prohibiting
8 illegal dumping, subject to exemptions under § 8-6-205 and the agricultural
9 exemptions under § 8-6-509, and for violations of the Litter Control Act, §
10 8-6-401 et seq, prohibiting unlawful littering.

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

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

19 ~~(4)(B)~~ Courts having jurisdiction over citations issued by
20 illegal dumps control officers may issue penalties as specified in § 8-6-
21 204(a).

22 (4) Illegal dumps control officers may require violators to
23 present signed and dated disposal receipts as evidence that the solid waste:

24 (A) Has been removed from the illegal dump; and

25 (B) Properly disposed in one (1) or more of the following
26 facilities:

27 (i) A permitted landfill;

28 (ii) A solid waste transfer station;

29 (iii) A recycling center;

30 (iv) An incinerator;

31 (v) A scrap yard that purchases iron, steel,
32 aluminum, or other metals;

33 (vi) A permitted waste tire collection center or
34 waste tire processing facility; or

35 (vii) Any other facility that the illegal dumps
36 control officer finds to be a proper disposal of the solid waste.

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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5 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
6 General Assembly of the State of Arkansas that current resources are limited
7 to enforce the Litter Control Act; that this act authorizes illegal dumps
8 control officers to issue citations for violations of the Litter Control Act;
9 that this act clarifies the proper disposal of solid waste from illegal
10 dumps; and that this act is immediately necessary to provide additional
11 resources for the control of litter and the proper disposal of solid waste.
12 Therefore, an emergency is declared to exist and this act being immediately
13 necessary for the preservation of the public peace, health, and safety shall
14 become effective on:

15 (1) The date of its approval by the Governor;

16 (2) If the bill is neither approved nor vetoed by the Governor,
17 the expiration of the period of time during which the Governor may veto the
18 bill; or

19 (3) If the bill is vetoed by the Governor and the veto is
20 overridden, the date the last house overrides the veto.

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23 APPROVED: 2/07/2005
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