

Hall of the House of Representatives
85th General Assembly - Regular Session, 2005
Amendment Form

Subtitle of House Bill No. 1070

"TO ESTABLISH AS PRIMA FACIE EVIDENCE THAT THE DRIVER OF A VEHICLE IS
RESPONSIBLE FOR LITTER BLOWING OR FALLING ONTO THE ROADWAY."

Amendment No. 3 to House Bill No. 1070.

Amend House Bill No. 1070 as engrossed, H2/3/05 (version: 02-03-2005 14:00):

Page 1, delete line 33 entirely and substitute:
"done by the driver of the vehicle."

SECTION 2. Arkansas Code § 8-6-404 is amended to read as follows:
8-6-404. Penalties.

(a)(1) Every person convicted of a violation of § 8-6-406 or § 8-6-407 shall be guilty of:

(A) An unclassified misdemeanor for a first offense and shall be fined one hundred dollars (\$100) and sentenced to eight (8) hours of community service; and

(B) A Class A misdemeanor for a second or subsequent offense occurring within three (3) years of the first offense.

(2) In addition to those penalties, any violator may also be required to remove litter from alongside highways and at other appropriate locations for any prescribed period.

(b) Any person who violates § 8-6-406 or § 8-6-407 and who is found to have committed the prohibited acts in furtherance of or as a part of a commercial enterprise, whether or not that enterprise is the disposal of wastes, shall be guilty of commercial littering and shall be guilty of a Class A misdemeanor. Additionally, those convicted may be required to remove any litter disposed of in violation of this subchapter.

(c) Any person who violates any provision of § 8-6-408 shall be guilty of:

(1) An unclassified misdemeanor for a first offense and shall be fined one thousand dollars (\$1,000) and sentenced to one hundred (100) hours of community service; and

(2) A Class A misdemeanor for a second or subsequent offense.

(d)(1) All or any portion of the fines, community service, and imprisonment penalties provided by this section may be suspended by the judge if the violator agrees to remove litter from alongside highways and at other appropriate locations for a prescribed period.

(2) All fines collected under this section shall be deposited as



follows:

(A) If a municipality or county where the offense occurs is a certified affiliate of Keep Arkansas Beautiful or Keep America Beautiful, Inc., and participates in litter control programs conducted by these organizations, then the moneys from fines collected for offenses in that jurisdiction shall be deposited, according to accounting procedures prescribed by law, into the city general fund or the county general fund to be used for the purpose of community improvement as determined by the municipal or county governing body; or

(B) If the municipality or county where the offense occurs is not a certified affiliate of Keep Arkansas Beautiful or Keep America Beautiful, Inc., or does not participate in litter-control programs conducted by these organizations, then the moneys from fines collected for offenses in those jurisdictions shall be remitted by the tenth day of each month to the Administration of Justice Fund Section of the Office of Administrative Services of the Department of Finance and Administration, on a form provided by that office, for deposit in the Keep Arkansas Beautiful Fund Account to be used by the Keep Arkansas Beautiful Commission, as appropriated by the General Assembly, for the purposes of encouraging litter prevention and antilitter education and increasing awareness of litter law enforcement statewide.

(e) In addition to all other penalties, any person convicted of a violation of § 8-6-406 or § 8-6-407 who fails to pay any fines assessed in accordance with the findings and orders of the court shall have his or her driver's license suspended for six (6) months by the Department of Finance and Administration, upon receipt of an order of denial of driving privileges from the court pursuant to this section.

SECTION 3. Arkansas Code § 5 is amended to read as follows:

8-6-405. Injunction.

In addition to all other remedies provided by this subchapter, the Arkansas Department of Environmental Quality, the Attorney General of this state, the prosecuting attorney of a county where any violation of any provision of this subchapter occurs, or any citizen, resident, or taxpayer of the county where a violation of any provision of this subchapter occurs may apply to the chancery court or the judge in vacation of the county where the alleged violation occurred for an injunction to restrain, prevent, or abate the maintenance and storage of litter, junk motor vehicles, old vehicle tires, or inoperative or discarded household appliances in violation of any provision of this subchapter.

SECTION 4. Arkansas Code § 8-6-406 is amended to read as follows:

8-6-406. Unlawful to litter - Exceptions.

It shall be unlawful to drop, deposit, discard, or otherwise dispose of litter upon any public or private property in this state or upon or into any river, lake, pond, or other stream or body of water within this state, unless:

(1) The property has been designated by the Arkansas Department of Environmental Quality as a permitted disposal site;

(2) The litter is placed into a receptacle intended by the owner or tenant in lawful possession of that property for the deposit of litter, if it is deposited in such a manner as to prevent the litter from being carried

away or deposited by the elements upon any part of the private or public property or waters; or

(3)(A) The person is the owner or tenant in lawful possession of the property and the litter remains upon the property and the act does not create a public health or safety hazard, a public nuisance, or a fire hazard.

(B) However, a property owner shall not be held responsible for actions of his tenant.

SECTION 5. Arkansas Code § 8-6-407 is amended to read as follows:
8-6-407. Commercial refuse hauling by uncovered vehicles.

It shall be unlawful for any person engaged in commercial or for-hire hauling to operate any truck or other vehicle within this state to transport litter, trash, or garbage unless the vehicle is covered to prevent its contents from blowing, dropping, falling off, or otherwise departing from the vehicle. In addition, any person operating his own truck or other vehicle to transport litter, trash, or garbage shall take reasonable steps to prevent its contents from blowing, dropping, falling off, or otherwise departing from the vehicle. However, no vehicle hauling predominately metallic material shall be required to be covered if it is loaded in a manner which will prevent the material from falling or dropping from the vehicle.

SECTION 6. Arkansas Code § 8-6-408 is amended to read as follows:
8-6-408. Discarding certain items prohibited.

It shall be unlawful for any person to place or cause to be placed any junk motor vehicle, old vehicle tire, or inoperative or abandoned household appliance, or part thereof, upon the right-of-way of any public highway, upon any other public property, or upon any private property which he does not own, lease, rent, or otherwise control, unless it is at a salvage yard, a permitted disposal site, or at the business establishment of a demolisher.”

The Amendment was read _____
By: Representative Borhauer
JSE/VLH - 02-23-2005 15:50
JSE270 _____
Chief Clerk