

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  
4

As Engrossed: H3/26/03 S4/15/03

# A Bill

HOUSE BILL 2404

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; 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

16 TO GIVE ILLEGAL DUMP OFFICERS THE POWER  
17 TO ISSUE CITATIONS FOR LITTERING AND TO  
18 CLARIFY THE PROPER DISPOSAL OF SOLID  
19 WASTE FROM ILLEGAL DUMPS.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 *SECTION 1.* Arkansas Code § 8-6-412 is amended to read as follows:

26 8-6-412. Enforcement generally.

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

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

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

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

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



1                    (i) Have the powers of arrest;  
 2                    (ii) Carry firearms; or  
 3                    (iii) Take any other official law enforcement  
 4 actions.

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

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

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

13            8-6-505. Proceedings generally.

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

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

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

28            (3) Upon the order being served, the accused party shall remove  
 29 the solid waste in question from the public or private property as described  
 30 in the order, shall dispose of the solid waste at a properly permitted solid  
 31 waste transfer station, landfill, recycling center, or incinerator, and shall  
 32 return to the court a disposal receipt from the facility where the solid  
 33 waste was disposed.

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

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

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

9 (3) The parties represented at the hearing may be represented by  
10 counsel.

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

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

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

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

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31 *SECTION 3.* Arkansas Code § 8-6-508 is amended to read as follows:

32 8-6-508. Enforcement generally.

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

36 (A) Inspect suspected illegal dumps;

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

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

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

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

17 (4) ~~Courts having jurisdiction over citations issued by illegal~~  
18 ~~dumps control officers may issue penalties as specified in § 8-6-204(a)~~  
19 Illegal dumps control officers may require violators to present signed and  
20 dated disposal receipts as evidence that the solid waste has been removed  
21 from the illegal dump and properly disposed in a permitted landfill or other  
22 facility, including a solid waste transfer station, recycling center,  
23 incinerator, or a scrap yard that buys iron, steel, aluminum, and other  
24 metals or a permitted waste tire collection center or waste tire processing  
25 facility.

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

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

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30 /s/ Borhauer  
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