1	State of Arkansas	A D:11	
2	85th General Assembly	A Bill	
3	Regular Session, 2005		HOUSE BILL 1068
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5	By: Representative Borhauer		
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8		For An Act To Be Entitled	
9	AN ACT TO A	MEND THE LITTER CONTROL ACT TO	GIVE
10	ILLEGAL DUM	PS CONTROL OFFICERS THE POWER T	O ISSUE
11	CITATIONS F	OR LITTERING; TO CLARIFY THE PR	ROPER
12	DISPOSAL OF	SOLID WASTE FROM ILLEGAL DUMPS	3 AND TO
13	CORRECT REF	ERENCES TO THE COURT OF COMPETE	ENT
14	JURISDICTIO	N; AND FOR OTHER PURPOSES.	
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16		Subtitle	
17	TO GIVE	ILLEGAL DUMPS CONTROL OFFICERS	
18	THE POWE	R TO ISSUE CITATIONS FOR	
19	LITTERIN	G AND TO CLARIFY THE PROPER	
20	DISPOSAL	OF SOLID WASTE FROM ILLEGAL	
21	DUMPS.		
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24	BE IT ENACTED BY THE GENER	RAL ASSEMBLY OF THE STATE OF AR	KANSAS:
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26	SECTION 1. Arkansas	s Code § 8-6-412 is amended to	read as follows:
27	8-6-412. Enforcement	nt generally.	
28	(a) <u>(l)</u> All Arkansas	s-certified law enforcement off	icers shall enforce
29	the provisions of this sul	bchapter.	
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) <u>(1)</u> All of the <u>c</u>	certified law enforcement offic	ers are empowered to
33	issue citations to or arre	est persons violating any provi	sion of this
34	subchapter.		
35	(2)(A) Illega	al dumps control officers are e	mpowered to issue
36	citations to persons violating this subchapter.		

1	(B) However, illegal dumps control officers may not:
2	(i) Have the powers of arrest;
3	(ii) Carry firearms; or
4	(iii) Take any other official law enforcement
5	actions.
6	(c)(l) All of the certified law enforcement officers may serve and
7	execute all warrants, citations, and other process issued by the courts in
8	enforcing the provisions of this subchapter.
9	(2) In addition, mailing by registered mail of such process to
10	the person's last known place of residence shall be deemed as personal
11	service upon the person charged.
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13	SECTION 2. Arkansas Code § 8-6-505 is amended to read as follows:
L4	8-6-505. Proceedings generally.
15	(a) Any government official or employee or any person who has
16	knowledge of or information of the illegal dumping of solid waste on any
L 7	public or private property in this state may file a complaint thereof in $\frac{1}{2}$
18	county court a court of competent jurisdiction of the county in which the
19	illegal dumping of solid waste has taken place or in the county of residence
20	of the person who is accused of being liable for the illegal dumping of the
21	solid waste.
22	(b)(1) Upon the filing of a verified complaint, noting on the
23	complaint the person against whom the claim is filed, the county court shall
24	enter a temporary order directing that the accused person remove from the
25	described public or private property the solid waste that has been illegally
26	dumped on the property and properly dispose of the solid waste $\underline{\text{in a permitted}}$
27	<u>landfill</u> or other facility within ten (10) days from the date of the order.
28	(2) The sheriff of the county shall serve the order.
29	(3) Upon the order being served, the accused party shall:
30	(A) remove Remove the solid waste in question from the
31	public or private property as described in the order $\frac{1}{2}$:
32	(B) Dispose of the solid waste at a properly permitted
33	solid waste transfer station, landfill, recycling center, or incinerator; and
34	(C) Return to the court a disposal receipt from the
35	facility where the solid waste was disposed.
36	(4) If the nerson wishes to challenge the order, the nerson may

file a petition challenging the order with the court within ten (10) days from the date the order is served.

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- 3 (c)(1) Upon the filing of a petition challenging the order, the court
 4 shall hold a hearing on it within fourteen (14) days after the filing of the
 5 petition and shall serve notice upon the accusing party and upon the accused.
 - (2) At the hearing, which may be continued from time to time as determined by the county the court, the court shall hear all evidence and testimony and, after hearing it, shall enter an order either dismissing the original or temporary order or making the order permanent.
- 10 (3) The parties represented at the hearing may be represented by 11 counsel.
 - (d)(1) If the order is made permanent, the accused party shall, within ten (10) days thereafter, cause the solid waste which has been illegally dumped on private or public property to be removed therefrom and disposed of properly in a permitted landfill or other facility.
 - (2)(A) If, after ten (10) days from the date of the order, the person against whom the order is directed has not removed the solid waste from the public or private property and properly disposed of it as noted in the order, the governmental agency or the owner of the property may cause it to be moved and shall file with the county a court a verified statement in writing of the cost of removal.
- 22 (B) After reviewing the statement, if the court determines 23 it to be reasonable, the court shall enter an order upon the judgment docket 24 of the county court of the amount thereof, which shall be a judgment against 25 the party against whom the judgment was issued and may be enforced as any 26 other judgment.
 - (e)(1) Any party aggrieved by any order of the county a court under this subchapter may appeal therefrom to the circuit court, and.
 - (2) If an aggrieved party appeals to the circuit court of competent jurisdiction, then the circuit court shall try the cause de novo.
- 32 SECTION 3. Arkansas Code § 8-6-508 is amended to read as follows: 33 8-6-508. Enforcement generally.
- 34 (a)(1) Illegal dumps control officers are hereby empowered to ensure 35 compliance with the provisions of this subchapter by having the right and 36 duty to:

1	(A) Inspect suspected lilegal dumps;		
2	(B) Collect evidence of open dumping and littering and		
3	present the evidence to the prosecuting attorney or a court of competent		
4	jurisdiction where the offense was committed; and		
5	(C) Issue and serve citations for violations of provisions		
6	of the Arkansas Solid Waste Management Act, § 8-6-201 et seq., prohibiting		
7	illegal dumping, subject to exemptions under § 8-6-205 and the agricultural		
8	exemptions under \S 8-6-509, and for violations of the Litter Control Act, \S		
9	8-6-401 et seq, prohibiting unlawful littering.		
10	(2) Citations issued by illegal dumps control officers shall be		
11	filed in any court having jurisdiction in the county where the offense is		
12	committed.		
13	(3) $\underline{(A)}$ Citations may be served in person or by mailing a copy of		
14	the citation by certified mail, restricted delivery, to either the address		
15	obtained from evidence collected from the illegal dump or to the person's		
16	last known address. Persons receiving citations shall appear before the		
17	court named within the citation at the time designation therein.		
18	$\frac{(4)(B)}{(B)}$ Courts having jurisdiction over citations issued by		
19	illegal dumps control officers may issue penalties as specified in § 8-6-		
20	204(a).		
21	(4) Illegal dumps control officers may require violators to		
22	present signed and dated disposal receipts as evidence that the solid waste:		
23	(A) Has been removed from the illegal dump; and		
24	(B) Properly disposed in one (1) or more of the following		
25	facilities:		
26	(i) A permitted landfill;		
27	(ii) A solid waste transfer station;		
28	(iii) A recycling center;		
29	(iv) An incinerator;		
30	(v) A scrap yard that purchases iron, steel,		
31	aluminum, or other metals;		
32	(vi) A permitted waste tire collection center or		
33	waste tire processing facility; or		
34	(vii) Any other facility that the illegal dumps		
35	control officer finds to be a proper disposal of the solid waste.		
36	(b) All illegal dumps control officers shall be licensed and certified		

1	in accordance with § 8-6-901 et seq.		
2	(c) Illegal dumps control officers shall not have powers of arrest.		
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4	SECTION 4. EMERGENCY CLAUSE. It is found and determined by the		
5	General Assembly of the State of Arkansas that current resources are limited		
6	to enforce the Litter Control Act; that this act authorizes illegal dumps		
7	control officers to issue citations for violations of the Litter Control Act;		
8	that this act clarifies the proper disposal of solid waste from illegal		
9	dumps; and that this act is immediately necessary to provide additional		
10	resources for the control of litter and the proper disposal of solid waste.		
11	Therefore, an emergency is declared to exist and this act being immediately		
12	necessary for the preservation of the public peace, health, and safety shall		
13	become effective on:		
14	(1) The date of its approval by the Governor;		
15	(2) If the bill is neither approved nor vetoed by the Governor,		
16	the expiration of the period of time during which the Governor may veto the		
17	bill; or		
18	(3) If the bill is vetoed by the Governor and the veto is		
19	overridden, the date the last house overrides the veto.		
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