

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 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H2/3/05 H2/25/05

A Bill

HOUSE BILL 1070

5 By: Representative Borhauer
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For An Act To Be Entitled

9 AN ACT TO ESTABLISH AS PRIMA FACIE EVIDENCE THAT
10 THE DRIVER OF A *VEHICLE* IS RESPONSIBLE FOR LITTER
11 BLOWING OR FALLING ONTO THE ROADWAY; AND FOR
12 OTHER PURPOSES.
13

Subtitle

14 TO ESTABLISH AS PRIMA FACIE EVIDENCE
15 THAT THE DRIVER OF A *VEHICLE* IS
16 RESPONSIBLE FOR LITTER BLOWING OR
17 FALLING ONTO THE ROADWAY.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code § 8-6-409 is amended to read as follows:

25 8-6-409. Prima facie evidence against drivers.

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

29 (b) If the unlawful dropping, depositing, discarding, or otherwise
30 disposing of the litter occurs from a motor vehicle and the litter blows or
31 drops onto the roadway from the vehicle, then it is prima facie evidence that
32 the dropping, depositing, discarding, or other disposing of the litter was
33 done by the driver of the vehicle.
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35 SECTION 2. Arkansas Code § 8-6-404 is amended to read as follows:

36 8-6-404. Penalties.



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

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

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

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

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

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

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

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

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

27 (2) All fines collected under this section shall be deposited as
28 follows:

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

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

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

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

21 8-6-405. Injunction.

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

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

34 8-6-406. Unlawful to litter - Exceptions.

35 It shall be unlawful to drop, deposit, discard, or otherwise dispose of
36 litter upon any public or private property in this state or upon or into any

1 river, lake, pond, or other stream or body of water within this state,
2 unless:

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

5 (2) The litter is placed into a receptacle intended by the owner
6 or tenant in lawful possession of that property for the deposit of litter, if
7 it is deposited in such a manner as to prevent the litter from being carried
8 away or deposited by the elements upon any part of the private or public
9 property or waters; or

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

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

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16 SECTION 5. Arkansas Code § 8-6-407 is amended to read as follows:

17 8-6-407. Commercial refuse hauling by uncovered vehicles.

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

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29 SECTION 6. Arkansas Code § 8-6-408 is amended to read as follows:

30 8-6-408. Discarding certain items prohibited.

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

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/s/ Borhauer