**A** **BILL**

TO AMEND SECTION 16‑11‑700 OF THE 1976 CODE, RELATING TO THE PROHIBITION AGAINST DUMPING LITTER ON PUBLIC OR PRIVATE PROPERTY, TO PROVIDE FOR INCREASED PENALTIES AND TO DEFINE ‘LITTER’; TO AMEND SECTION 16‑11‑720, RELATING TO THE PROHIBITION AGAINST DUMPING TRASH IN LAKE GREENWOOD OR ALONG ITS SHORELINE, TO PROVIDE FOR INCREASED PENALTIES; AND BY ADDING SECTION 44‑67‑140 TO ESTABLISH A LITTER OFFENDER DATABASE TO BE MAINTAINED AND OPERATED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, TO PROVIDE FOR THE CONTENTS OF THE DATABASE, AND TO PROVIDE FOR THE LENGTH OF TIME THAT AN OFFENDER’S NAME AND OTHER REQUIRED INFORMATION MUST BE MAINTAINED ON THE DATABASE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 16‑11‑700 of the 1976 Code is amended to read:

“Section 16‑11‑700. (A) A person, from a vehicle or otherwise, may not dump, throw, drop, deposit, discard, or otherwise dispose of litter, as defined in Section 44‑67‑30(4), or other solid waste, as defined by Section 44‑96‑40(46), upon public or private property or waters in the State including, but not limited to, a highway, park, beach, campground, forest land, recreational area, trailer park, road, street, or alley except:

(1) on property designated by the State for the disposal of litter and other solid waste and the person is authorized to use the property for that purpose; or

(2) into a litter receptacle in a manner that the litter is prevented from being carried away or deposited by the elements upon a part of the private or public property or waters.

(B) Responsibility for the removal of litter from property or receptacles is upon the person convicted pursuant to this section of littering the property or receptacles. If there is no conviction for littering, the responsibility is upon the owner of the property.

(C)(1) A person who violates the provisions of this section in an amount less than fifteen pounds in weight or twenty‑seven cubic feet in volume is guilty of a misdemeanor and, upon conviction, must be fined ~~two~~ five hundred dollars or imprisoned for not more than ~~thirty~~ sixty days for a first or second conviction, or fined ~~five~~ ~~hundred~~ one thousand dollars or imprisoned for not more than ~~thirty~~ ninety days for a third or subsequent conviction. In addition to the fine or term of imprisonment, the court also must impose ~~eight~~ sixteen hours of litter‑gathering labor for a first conviction, ~~sixteen~~ twenty‑four hours of litter‑gathering labor for a second conviction, and ~~twenty‑four~~ thirty‑two hours of litter‑gathering labor for a third or subsequent conviction, or other form of public service, under the supervision of the court, as the court may order because of physical or other incapacities.

(2) The fine for a deposit of a collection of litter or garbage in an area or facility not intended for public deposit of litter or garbage is ~~one~~ two thousand five hundred dollars. The provisions of this item apply to a deposit of litter, as defined in Section 44‑67‑30(4), or garbage, as defined in Section 44‑67‑30(4), in an area or facility not intended for public deposit of litter or garbage. This item does not prohibit a private property owner from depositing litter or garbage as a property enhancement if the depositing does not violate applicable local or state health and safety regulations. In addition to a fine and for each offense pursuant to the provisions of this item, the court also shall impose a minimum of ~~five~~ ten hours of litter‑gathering labor or other form of public service, under the supervision of the court, as the court may order because of physical or other incapacities.

(3) The court, instead of payment of the monetary fine imposed for a violation of this section, may direct the substitution of additional litter‑gathering labor or other form of public service, under the supervision of the court, as it may order because of physical or other incapacities not to exceed one hour for each five dollars of fine imposed.

(4) In addition to other punishment authorized by this section, in the discretion of the court in which conviction is obtained, the person may be directed by the judge to pick up and remove from any public place or any private property, with prior permission of the legal owner of the property upon which it is established by competent evidence that the person has deposited litter, all litter deposited on the place or property by any person before the date of execution of sentence.

(D) A person who violates the provisions of this section in an amount exceeding fifteen pounds in weight or twenty‑seven cubic feet in volume, but not exceeding five hundred pounds or one hundred cubic feet, is guilty of a misdemeanor and, upon conviction, must be fined not less than ~~two~~ seven hundred fifty dollars nor more than one thousand five hundred dollars or imprisoned for not more than ~~ninety~~ one hundred twenty days. In addition, the court shall require the violator to pick up litter or perform other community service commensurate with the offense committed, up to one hundred fifty hours but no less than thirty‑two hours.

(E)(1) A person who violates the provisions of this section in an amount exceeding five hundred pounds in weight or one hundred cubic feet in volume is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand five hundred dollars nor more than ~~one~~ three thousand dollars, or imprisoned not more than ~~one year~~ eighteen months, or both. In addition, the court may order the violator to:

(a) remove or render harmless the litter that he dumped in violation of this subsection;

(b) repair or restore property damaged by, or pay damages for damage arising out of, his dumping of litter in violation of this subsection; or

(c) perform community public service relating to the removal of litter dumped in violation of this subsection or relating to the restoration of an area polluted by litter dumped in violation of this subsection. Public community service imposed for a violation of this subsection must be commensurate with the offense committed but may not be less than fifty hours.

(2) A court may enjoin a violation of this subsection.

(3) A motor vehicle, vessel, aircraft, container, crane, winch, or machine involved in the disposal of more than five hundred pounds in weight or more than one hundred cubic feet in volume of litter in violation of this subsection is declared contraband and is subject to seizure and summary forfeiture to the State.

(4) If a person sustains damages in connection with a violation of this subsection that gives rise to a felony against the person or his property, a court, in a civil action for those damages, shall order the wrongdoer to pay the injured party threefold the actual damages or ~~two~~ five hundred dollars, whichever amount is greater. In addition, the court shall order the wrongdoer to pay the injured party’s court costs and attorney’s fees.

(5) A fine imposed pursuant to this subsection must not be suspended, in whole or in part.

(F)(1) When the penalty for a violation of this section includes litter‑gathering labor in addition to a fine or imprisonment, the litter‑gathering portion of the penalty is mandatory and must not be suspended; however, the court, upon the request of a person convicted of violating this section, may direct that the person pay an additional monetary penalty instead of the litter‑gathering portion of the penalty that must be equal to the amount of five dollars an hour of litter‑gathering labor. Probation must not be granted instead of the litter‑gathering requirement, except for a person’s physical or other incapacities.

(2) Funds collected pursuant to this subsection instead of the mandatory litter‑gathering labor must be remitted to the county or municipality where the littering violation took place. The money collected may be used for the litter‑gathering supervision.

(G) For purposes of the offenses established by this section, litter includes cigarettes and cigarette filters.

(H) A prior violation within the meaning of this section means only a violation of this section which occurred within a period of five years including and immediately preceding the date of the last violation.

(I) Magistrates and municipal courts have jurisdiction to try violations of subsections (A), (B), (C), and (D) of this section.

(J) The order of the court must be transmitted to the Department of Health and Environmental Control to be posted on the litter offender’s registry pursuant to Section 44‑67‑140.

(K) Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, and 22‑3‑550, an offense punishable under this section may be tried in summary court.”

SECTION 2. Section 16‑11‑720 of the 1976 Code is amended to read:

“Section 16‑11‑720. ~~(1)~~(A) It shall be unlawful for any person to dump, leave or throw any rubbish, trash, garbage, cans, bottles, containers, paper, oil, grease or other similar substances or dead animals into the waters or along the shoreline of Lake Greenwood.

~~(2)~~(B) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than ~~one~~ two hundred fifty dollars or be imprisoned for not more than ~~thirty~~ sixty days.

(C) The order of the court must be transmitted to the Department of Health and Environmental Control to be posted on the litter offender’s registry pursuant to Section 44‑67‑140.”

SECTION 3. Chapter 67, Title 44 of the 1976 Code is amended by adding:

“Section 44‑67‑140. The department must develop and maintain a registry containing the name and address of any person convicted of an offense contained in Section 16‑11‑700 or 16‑11‑720. The registry must also include the nature of the offense and the penalty imposed. The person’s name must remain on the registry for one year from the date of his conviction. The registry must be in a conspicuous location on the department’s internet website.”

SECTION 4. This act takes effect upon approval by the Governor.

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