**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16‑11‑705 SO AS ESTABLISH A CIVIL OFFENSE FOR LITTERING; AND TO AMEND SECTION 16‑11‑700, AS AMENDED, RELATING TO THE DUMPING OF LITTER ON PRIVATE OR PUBLIC PROPERTY, SO AS TO REVISE THE PENALTIES FOR LITTERING OFFENSES.

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

SECTION 1. Article 7, Chapter 11, Title 16 of the 1976 Code is amended by adding:

“Section 16‑11‑705. (A) A local law enforcement agency may issue a civil penalty citation to the registered owner of a vehicle from which litter is unlawfully discarded or disposed of in violation of any provision of Section 16‑11‑700 when the offense is not committed in the presence of a law enforcement officer.

(B) A person may be found guilty and held liable for the civil offense of littering under this section if it is established by a preponderance of the evidence that the person littered in violation of any provision of Section 16‑11‑700. A violation may be based in whole or in part on eyewitness evidence and information submitted to the local law enforcement agency.

(C) When litter is improperly discarded or disposed of from a motor vehicle, there is a rebuttable presumption that the registered owner of the vehicle is the person who committed the offense in violation of this section.

(D) A mandatory civil penalty in the amount of fifty dollars must be assessed and collected for a violation of this section.

(E) A civil penalty citation issued pursuant to this section must:

(1) be sent via first class mail to the registered owner of the vehicle at the address provided by the Department of Motor Vehicles;

(2) notify the registered owner of the vehicle that within thirty days of receipt the owner must either pay the fine or challenge the citation; and

(3) notify the registered owner of the manner in which the citation may be challenged, in which case a hearing must be scheduled before the appropriate magistrate or municipal court.

(F) Magistrates and municipal courts have exclusive jurisdiction to try violations of this section.

(G) Funds collected under this section must be remitted or used in the manner provided in Section 16‑11‑700 for fines and fees from criminal littering provisions.

(H) A person may not be held liable for the civil offense of littering pursuant to the provisions of this section if the person is convicted of littering in violation of any provision of Section 16‑11‑700 for the same incident.”

SECTION 2. Section 16‑11‑700(C), (D), and (E) of the 1976 Code, as last amended by Act 214 of 2018, is further amended to read:

“(C) A person who violates the provisions of this section in an amount not more than fifteen pounds, including cigarette butts and cigarette components, is guilty of a misdemeanor and, upon conviction, must be fined not less than ~~twenty‑five~~ seventy‑five dollars and not more than one hundred and fifty dollars or imprisoned for not more than thirty days. In addition to the fine or term of imprisonment, the court also must impose eight hours of litter‑gathering labor or other form of community service.

(D) The fine for a deposit of a collection of litter or garbage in an amount not more than fifteen pounds in an area or facility not intended for public deposit of litter or garbage is not less than ~~fifty~~ one hundred dollars and not more than ~~one~~ two hundred ~~and fifty~~ dollars. The provisions of this subsection apply to a deposit of litter or solid waste, as defined by Section 44‑96‑40(2), (6), (32), (33), (43), (46), (73), and (74), including cigarette butts and cigarette components, in an area or facility not intended for public deposit of litter or garbage. This subsection 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 subsection, the court also shall impose a minimum of sixteen hours of litter‑gathering labor or other form of community service.

(1) 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 community service.

(2) 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.

(E) A person who violates the provisions of this section in an amount exceeding fifteen pounds, but not exceeding five hundred pounds on any public or private property, any portion of the road right of way, fresh‑water lake, river, canal or stream, or tidal or coastal waters of the State must be charged with illegal dumping of litter and is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred and fifty dollars nor more than fivehundred dollars or imprisoned for not more than thirty days. In addition, the court shall require the violator to complete sixteen hours of litter‑gathering labor or perform other community service. For a second conviction, the person must be fined not less than two hundred and fifty dollars nor more than five hundred dollars or imprisoned for not more than thirty days. In addition, the court shall require the violator to complete twenty‑four hours of litter‑gathering labor or other community service. For a third or subsequent conviction, the person must be fined not less than two hundred and fifty dollars nor more than five hundred dollars or imprisoned for not more than thirty days. In addition, the court shall require the violator to complete thirty‑two hours of litter‑gathering labor or other community service.”

SECTION 3. This act takes effect upon approval by the Governor.

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