

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 550
 SPONSOR: Senator Dawson
 SUBJECT: Private Property/Dumping of Litter
 DATE: February 25, 2004 REVISED: 03/03/04 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Clodfelter</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/1 amendment</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill provides for court-ordered community service to be performed in the area or neighborhood where certain litter law violations occurred. This bill also amends current law to provide that it is unlawful for any person to dump litter on private property unless the owner has given prior consent and such litter by such person will not cause a public nuisance or violate any other state or local law, rule, or regulation.

This bill amends s. 403.413, F.S.

II. Present Situation:

Section 403.413(4), F.S., prohibits the dumping of litter unless otherwise authorized. However, dumping litter on private property may occur with the consent of the property owner when such litter neither causes a public nuisance nor is in violation of any other law or regulation.

Section 403.413(6), F.S., establishes penalties for littering. Dumping 15 to 500 pounds or 27 to 100 cubic feet of litter, not for commercial purposes, is a first degree misdemeanor. In addition to other penalties, violators must be required to pick up litter or perform other community service commensurate with the offense. Dumping more than 500 pounds or 100 cubic feet of litter, dumping any quantity of litter for commercial purposes, or dumping any quantity of litter that is hazardous waste is a third degree felony. In addition to other penalties, the court may order felony violators to: (1) remove or render the litter harmless; (2) repair, restore, or pay damages for any property damaged by the dumping; or (3) perform public service relating to removal of litter or to restoration of an area polluted by litter.

Pursuant to s. 775.091, F.S., a court may order a defendant to perform a specified public service in addition to any other punishment that is imposed.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 403.413(4), F.S., to add the words “by such person” to the provision that it is unlawful for any person to dump litter on private property unless the owner has given prior consent and such litter will not cause a public nuisance or violate any other state or local law, rule, or regulation. It appears that the purpose of the amendment is to provide that the person dumping litter is responsible for properly dumping the litter in such a way as to avoid creating a public nuisance and adhering to laws and regulations, but is not responsible for any subsequent actions by other persons that cause the litter to become a nuisance or to be in violation of law. However, the meaning of the amendment is slightly ambiguous and it can also be interpreted as making no substantive change to the statute.

Section 2 amends s. 403.413(6), F.S., to require that a person who is ordered to pick up litter or perform other community service as a result of a misdemeanor littering conviction must perform the service in the community, area, or neighborhood where the violation occurred. In addition, the bill provides that a person found guilty of a third degree felony for littering may be ordered to perform community service relating to beautification of the general area where the dumping occurred.

Section 3 provides an effective date of July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Areas not normally targeted for community clean-up through the imposition of community service requirements on violators of the Florida Litter Law may benefit from the provisions of this bill.

C. Government Sector Impact:

Local governments could benefit through reduced waste collection expenditures.

VI. Technical Deficiencies:

Section 1 of the bill amends s. 403.413(4), F.S., to create a slightly ambiguous sentence. It appears that a word was inadvertently omitted from the additional language.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Criminal Justice:

The amendment corrects a grammatical error in the bill.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
