

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 913 Littering
SPONSOR(S): Culp
TIED BILLS: **IDEN./SIM. BILLS:** SB 1774

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee		Savage	Kramer
2) Justice Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

Currently any person who litters on public land, waterways, or private property under certain circumstances is guilty of a noncriminal offense and subject to a \$50 fine and public service sanctions if the amount of litter does not exceed 15 pounds in weight or 27 cubic feet in volume.

HB 913 increases this fine from \$50 to \$200.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility—The bill increases the sanction for violating s. 403.413(6)(a) F.S., littering an amount no greater than 15 pounds or 27 cubic feet in volume, from \$50 to \$200.

B. EFFECT OF PROPOSED CHANGES:

Current law prohibits dumping litter on public property, waterways, or private domain unless the litterer has obtained prior consent of the owner of the property and the litter will not cause a public nuisance or violate another state or local law.¹ Any person who litters in violation of s. 403.413(4) F.S. is guilty of a noncriminal offense if the amount of the litter does not exceed 15 pounds in weight or 27 cubic feet in volume.² Currently the sanction for violating this law is a \$50 fine, and at the courts discretion the offender may be required to pick up litter or perform other similar labor.³

A noncriminal offense is one in which the offender may not be sentenced to a term of imprisonment or any other punishment more severe than a fine, forfeiture, or other civil penalty.⁴ A civil penalty differs from a criminal penalty in its goals; civil penalties are awarded to compensate the government for a loss, whereas the goal of a criminal penalty is punishment.⁵ However, a civil penalty charge does not afford defendants the constitutional protections that are given to criminal defendants.⁶

This bill proposes to increase the sanction for violating s. 403.413(6)(a) F.S., from \$50 to \$200.

C. SECTION DIRECTORY:

Section 1. Amends s. 403.413(6)(a) F.S., increasing the civil penalty sanction from \$50 to \$100.

Section 2. This act shall take effect July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments, below.

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments, below.

¹ s. 403.413(4) F.S.

² s. 403.413(6)(a) F.S.; *For criminal penalties applied to dumping larger quantities of litter see s. 403.413(6)(b)&(c) F.S.*

³ *Id.*

⁴ 15 Fla.Jur 2d 2120 (2004)

⁵ 39 Fla. Jur 2d 4 (2004)

⁶ 36 Am.Jur 2d 54 (2004), *citing US v. Le Beouf Bros. Towing Co., Inc.*, 537 F2d 149 (5th Cir. 1976).

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments, below.

D. FISCAL COMMENTS:

Currently the fine for violating s. 403.413(6)(a) F.S. is \$50. Anecdotally, the Florida Fish and Wildlife Commission issued 60 citations for littering in the last calendar year, and has issued 3 such citations this year.⁷ To the extent that the enhanced penalty proposed by the bill increases revenues it could have a positive fiscal impact on state and local government entities.

The cost of litter pickup is distributed widely throughout the divisions of the state; city, county, and state agencies each contribute. For instance, the Florida Department of Transportation estimates that it spends \$10 million annually in litter removal, and a medium sized county should expect to pay roughly \$115,000 a year.⁸ In so far as the proposed legislation reduces littering, each entity engaged in trash clean up may be able to reduce its spending for that activity.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None. This bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds, reduce the authority that cities or counties have to raise revenues in the aggregate, or reduce the percentage of a state tax shared with cities or counties

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Additional Agency rules do not appear necessary to implement this proposed legislation,

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

⁷ As reported on February 28, 2005

⁸ An estimated expense provided for by the Florida Association of Counties based on the annual expenses of Leon County