

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/SB 1368

INTRODUCER: Community Affairs Committee and Senator Wright

SUBJECT: Unlawful Dumping

DATE: March 30, 2023

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|------------------|
| 1. | <u>Carroll</u> | <u>Rogers</u> | <u>EN</u> | Favorable |
| 2. | <u>Hunter</u> | <u>Ryon</u> | <u>CA</u> | Fav/CS |
| 3. | _____ | _____ | <u>RC</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1368 amends the Florida Litter Law. The bill adds to drain and to discharge to the definition of “dump.” The bill also adds personal property, pharmaceuticals of any kind, household items, sheds, trucks, trailers, and motorhomes to the definition of “litter.” The bill defines “water control district” (WCD) as a WCD that exists pursuant to chapter 298, F.S., concerning drainage and water control, or was created by special act of the Legislature.

The bill makes it unlawful for any person to dump litter in or on any WCD property or canal right-of-way, unless the person has prior consent. When any litter is thrown or discarded from a boat, the operator and/or owner of the boat are in violation of the Florida Litter Law.

The bill requires a member of a WCD board of directors or a district manager who discovers that a person has committed unlawful dumping in or on WCD property or canal right-of-way without prior consent to report the incident to the appropriate law enforcement agency. The bill allows a law enforcement officer to enter any district canal right-of-way, property, or facility to respond to such an incident.

The bill provides that land owned by a WCD or that was created by special act of the Legislature is “posted land” if signs are placed at or near the intersection of any district canal right-of-way and a road right-of-way.

The bill is effective October 1, 2023.

II. Present Situation:

Aquatic Trash

Trash that escapes into waterways affects water quality, endangers plants and animals, and pollutes areas used for tourism and recreation.¹ Trash can easily end up in waterways if it is not properly disposed of, because stormwater runoff and wind carry it into storm drain, streams, canals, and rivers. Trash also may end up in waterways because of illegal dumping, especially in places where there is a lack of regular trash pickup services or publicly available dumpsters.² Trash can travel long distances and often ends up in the ocean. Marine debris often includes plastic, metal, rubber, paper, textiles, microplastics, derelict fishing gear, and abandoned and derelict vessels.³

The images below show debris accumulation in a canal in South Florida.⁴



Florida Litter Law

Florida law prohibits dumping litter in any manner or amount unless otherwise authorized by law or permit:

- In or on any public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or any other public lands, except in containers or areas lawfully provided therefor. The owner and/or operator of a motor vehicle violates this law if litter is thrown or discarded from the vehicle;

¹ U.S. Environmental Protection Agency (EPA), *Learn about Aquatic Trash*, available at <https://www.epa.gov/trash-free-waters/learn-about-aquatic-trash> (last visited Mar. 25, 2023).

² *Id.*

³ *Id.*; National Oceanic and Atmospheric Administration (NOAA), *What is Marine Debris?*, available at <https://marinedebris.noaa.gov/discover-marine-debris/what-marine-debris> (last visited Mar. 25, 2023).

⁴ Rich Virgil, South Florida Water Management District, *Aquatic Vegetation, Litter, and Debris Entering District Waterways*, 232 (2022), available at <https://d3n9y02raazwpg.cloudfront.net/sfwmd/d0abad98-f938-11ec-baa3-0050569183fa-72fe29af-2810-417d-9194-0eba8f28d3a3-1670874235.pdf>.

- In or on any freshwater lake, river, canal, or stream or tidal or coastal water of the state, including canals. The owner and/or operator of a boat is in violation of this law if litter is thrown or discarded from the boat;
- In or on any private property, unless the owner has given consent and dumping the litter will not cause a public nuisance or otherwise be in violation of any other state or local law, rule, or regulation.⁵

Litter is defined as any garbage; rubbish; trash; refuse; can; bottle; box; container; paper; tobacco product; tire; appliance; mechanical equipment or part; building or construction material; tool; machinery; wood; motor vehicle or motor vehicle part; vessel; aircraft; farm machinery or equipment; sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility; or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.⁶

Littering Penalties

| Violation | Degree of Offense | Fine or Incarceration | Additional Penalties |
|---|------------------------------------|---------------------------------|--|
| Dumping no more than 15 lbs. or 27 ft. of litter (not for commercial purposes) | Noncriminal infraction | Fine: \$150 | May be required to pick up litter or perform other community service |
| Dumping 15-500 lbs. or 27-100 ft. of litter (not for commercial purposes) | 1 st Degree Misdemeanor | Max: \$1,000 Max: one year | Will be required to pick up litter or perform community service; three-point penalty on violator’s driver license if applicable |
| Dumping over 500 lbs. or 100 ft. of litter or any quantity for commercial purposes; dumping hazardous waste | 3 rd Degree Felony | Max: \$5,000 Max: five years | May be required to remove or render the litter harmless, repair or restore property damaged by the litter, pay damages for harm caused by the litter, or perform community service |

In addition to the penalties on the previous page, a motor vehicle, vessel, aircraft, container, crane, winch, or machine used to dump litter than exceeds 500 pounds in weight or 100 cubic feet in volume is declared contraband and subject to forfeiture.⁷ All law enforcement officers are charged with enforcement of Florida’s litter law.

⁵ Section 403.413(4), F.S.

⁶ Section 403.413(2), F.S.

⁷ Section 40.413(6), F.S.

Special Districts

A special district is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.⁸ Special districts are created by general law, special act, local ordinance, or by rule of the governor and cabinet.⁹ A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter.¹⁰ Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.¹¹ Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.¹²

Water Control Districts

Chapter 298, F.S., governs the creation and operation of water control districts (WCDs). WCDs include water management districts or drainage districts created pursuant to the method authorized in ch. 298, F.S., or water management districts created by special act.¹³ A WCD has the authority to construct, complete, operate, maintain, repair, and replace any and all works and improvement necessary to execute the water control plan adopted by the WCD.¹⁴ A WCD is authorized to acquire real property.¹⁵

Posted Land

“Posted land” is land where no trespassing signs are placed along, and at each corner of the boundaries of the land at 500-foot intervals or less. The signs must be clearly visible and bear the words “no trespassing” in letters two or more inches in height, and include the name of the owner, lessee, or occupant of the land.¹⁶

“Posted land” also includes land where conspicuous, orange “no trespassing” notices are painted on trees or posts on the property at 500-foot intervals or less. The painted letters must be at least two inches high and one inch wide and placed between three and five feet from the ground. Painted notices must be accompanied by signs bearing the words “no trespassing,” and include the name of the owner, lessee, or occupant of the land that are placed conspicuously at property entrances.¹⁷

⁸ Florida Assoc. of Special Districts, *What is a Special District*, available at <https://www.fasd.com/what-is-a-special-district-> (last visited Mar. 25, 2023).

⁹ See ss. 189.031(3), 189.02(1), and 190.005(1), F.S. See, generally, s. 189.012(6), F.S.

¹⁰ 2020 – 2022 *Local Gov't Formation Manual*, 64, available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3117&Session=2021&DocumentType=General+Publications&FileName=2021-2022+Local+Government+Formation+Manual.pdf> (last visited Mar. 25, 2023).

¹¹ *Id.*

¹² *Id.* at 70-73.

¹³ Section 298.001, F.S.

¹⁴ Section 298.22, F.S.

¹⁵ *Id.*

¹⁶ Section 810.011(5), F.S.

¹⁷ Section 810.011(5), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 403.413, F.S., to add drain and discharge to the definition of “dump.” The bill adds the following to the definition of “litter:”

- Personal property,
- Pharmaceuticals of any kind,
- Household items,
- Sheds,
- Trucks,
- Trailers, and
- Motorhomes.

The bill specifically excludes from the definition of litter any substances resulting from permitted, regulated, or authorized drainage, pumping, or runoff of surface water or stormwater.

The bill defines “water control district” (WCD) as a WCD that exists pursuant to ch. 298, F.S., concerning drainage and water control, or was created by special act of the Legislature.

The bill makes it unlawful for any person to dump any litter in or on WCD property or canal right-of-way, unless the district board of directors or the district manager or his or her designee has given prior consent. When any litter is thrown or discarded from a boat, the operator or owner of the boat, or both, are in violation of the Florida Litter Law.

The bill requires a member of a WCD board of directors or a district manager who discovers that a person has committed unlawful dumping in or on WCD property or canal right-of-way without prior consent to report the incident to the appropriate law enforcement agency with jurisdiction over the district. A law enforcement officer may enter any district canal right-of-way, property, or facility to respond to such an incident.

The bill makes conforming changes.

Section 2 amends s. 810.011, F.S., to add to the definition of “posted land.” The bill provides that land owned by a WCD that exists pursuant to ch. 298, F.S., concerning drainage or water control, or that was created by special act of the Legislature is “posted land” if signs are placed at or near the intersection of any district canal right-of-way and a road right-of-way.

The bill makes conforming changes.

Section 3 reenacts s. 403.4135(1), F.S., for the purpose of incorporating the amendment made by the bill to the Florida Litter Law in a reference thereto.

Section 4 reenacts s. 810.12(6), F.S., for the purpose of incorporating the amendment made by the bill to the Florida Litter Law in references thereto.

Section 5 provides an effective date of October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 403.413 and 810.011 of the Florida Statutes.

This bill reenacts sections 403.4135(1) and 810.12(6) of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on March 29, 2023:

The CS excludes from the definition of “litter” any substances resulting from permitted, regulated, or authorized drainage, pumping, or runoff of surface water or stormwater.

- B. **Amendments:**

None.