



ARIZONA STATE SENATE
Fifty-First Legislature, First Regular Session

AMENDED
FACT SHEET FOR S.B. 1266

illegal dumping; penalties

Purpose

Establishes fines and requirements related to the removal of trash and other debris from public or private property.

Background

Current statute requires a city or town governing body or a county board of supervisors to compel, by ordinance, the owner, lessee or occupant of property to remove rubbish, trash, weeds or other accumulation of filth, debris or dilapidated structures that constitute a public health or safety hazard. The ordinance must require written notice to the owner, along with at least 30 days to comply. In the case of noncompliance, the city, town or county may remove the trash with the cost assessed on the property. If persons, firms or corporations place such rubbish on property they do not own or control, they are guilty of class 1 misdemeanors or civil violations and are liable for the removal costs, in addition to any other fine (A.R.S. §§ 9-499 and 11-268).

A person commits criminal littering or polluting if the person, without lawful authority, does any of the following: a) throws litter or destructive material on public or private property without immediately removing it; b) discharges sewage, oil products or other harmful substances into waters or shorelines; or c) dumps any earth, soil, stones, ores or minerals on any land. Criminal littering or polluting has a range of penalties, from a class 2 misdemeanor to a class 6 felony, depending on the amount of pollutant, the purpose and the place it is dumped (A.R.S. § 13-1603).

There may be a fiscal impact to cities, towns or counties as a result of minimum fees established by this legislation, and the increase of a class 2 misdemeanor to a class 1 misdemeanor.

Provisions

Illegal Dumping on City or Town Lands

1. Establishes a fine or civil penalty of at least \$1,800 for a person who places trash or debris on property not owned by that person.
2. Requires the person to provide the city or town with evidence of lawful disposal, if required to remove trash or other debris.

3. Specifies that the person retains ownership of the rubbish or debris until lawfully disposed of, if the person places the rubbish or debris on property that is:
 - a) more than 40 acres in size; and
 - b) not owned or controlled by the person.
4. Stipulates that the illegal dumping violator is also liable for all costs incurred by the owner, lessee, occupant or lienholder of the property in the removal and disposal of the trash or debris.
5. Modifies the definition of *property* to include real property and structures on the real property. Currently, *property* is defined as buildings, grounds, lots and tracts of land.
6. Removes the requirement for an appeal to be before the city or town governing body or a board of citizens appointed by the governing body.

Illegal Dumping on County Lands

7. Establishes a fine of at least \$1,800 for a person, firm or corporation that places any rubbish or other debris on public or private property in unincorporated areas of the county not owned or under the control of the person, firm or corporation.
8. Requires the person, firm or corporation, if required to remove any rubbish or other debris, to provide proof of lawful disposal to the county.
9. Removes the requirement for an appeal on notices and assessments to be before the county board of supervisors.

Criminal Littering or Polluting

10. Increases, from a class 2 to a class 1 misdemeanor, noncommercial criminal littering if the amount of litter is:
 - a) more than 100 pounds but less than 300 pounds of weight; or
 - b) more than 35 cubic feet but less than 100 cubic feet in volume.
11. Establishes a fine of at least \$2,500 for throwing litter, destructive or injurious material on public property or property of another or discharging sewage, oil products or other harmful substances into waters or shorelines.

Miscellaneous

12. Exempts state and federal lands from the requirements and assessments related to illegal dumping cleanup, but assesses the related fines for illegal dumping on these lands.
13. Prohibits the fines or civil penalties from being waived or suspended.
14. Requires 100 percent of the assessed fine to be deposited in the city, town or county general fund, as appropriate, and 50 percent to be used for the purposes of illegal dumping cleanup.

15. Makes technical and conforming changes.

16. Becomes effective on the general effective date.

Amendments Adopted by PS Committee

1. Clarifies that assessments cannot be levied on state or federal property, but applies the enhanced fines for illegal dumping on these lands.
2. Specifies that 100 percent of the fine goes to the city, town or county, as appropriate, and 50 percent must be used for illegal dumping cleanup.

Senate Action

GE 2/21/13 DP 7-0-0-0

PS 2/20/13 DPA 5-0-2-0

Prepared by Senate Research

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