

CHAPTER 740

H.B. No. 1951

AN ACT

relating to illegal dumping; providing a criminal penalty.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Section 365.011, Health and Safety Code, is amended by adding Subdivision (9) to read as follows:

(9) *“Solid waste” has the meaning assigned by Section 361.003.*

SECTION 2. Section 365.012, Health and Safety Code, is amended to read as follows:

Sec. 365.012. *ILLEGAL DUMPING* [~~DISPOSAL OF LITTER~~]; CRIMINAL PENALTIES. (a) A person commits an offense if the person disposes or allows or permits the disposal of litter or other solid waste at a place that is not an approved solid waste site, including a place on or within 300 feet of a public highway, on a right-of-way, on other public or private property, or into inland or coastal water of the state.

(b) A person commits an offense if the person receives litter or other solid waste for disposal at a place that is not an approved solid waste site, regardless of whether the litter or other solid waste or the land on which the litter or other solid waste is disposed is owned or controlled by the person.

(c) A person commits an offense if the person transports litter or other solid waste to a place that is not an approved solid waste site for disposal at the site.

(d) An offense under this section is a Class C misdemeanor if the litter or other solid waste to which the offense applies weighs 15 pounds or less or has a volume of 13 gallons or less.

(e) An offense under this section is a Class B misdemeanor if the litter or other solid waste to which the offense applies weighs more than 15 pounds but less than 500 pounds or has a volume of more than 13 gallons but less than 100 cubic feet.

(f) An offense under this section is a Class A misdemeanor if:

(1) the litter or other solid waste to which the offense applies weighs 500 pounds or more or has a volume of 100 cubic feet or more; or

(2) the litter or other solid waste is disposed for a commercial purpose and weighs more than five pounds or has a volume of more than 13 gallons.

(g) If it is shown on the trial of the defendant for an offense under this section that the defendant has previously been convicted of an offense under this section, the punishment for the offense is increased to the punishment for the next highest category.

(h) A municipality or county may offer a reward of \$50 for reporting a violation of this section that results in a prosecution under this section.

(i) The offenses prescribed by this section include the unauthorized disposal of litter or other solid waste in a dumpster or similar receptacle.

(j) This section does not apply to the disposal of, or temporary storage for future disposal of, litter or other solid waste by a person on land owned by that person, or by that person's agent.

SECTION 3. Sections 365.014(b) and (c), Health and Safety Code, are amended to read as follows:

(b) A person who dumps more than five pounds or 13 gallons of litter or other solid waste from a commercial vehicle in violation of this subchapter is presumed to be dumping the litter or other solid waste for a commercial purpose.

(c) It is an affirmative defense to prosecution under Section 365.012 that:

(1) the storage, processing, or disposal took place on land owned or leased by the defendant;

(2) the defendant received the litter or other solid waste from another person;

(3) the defendant, after exercising due diligence, did not know and reasonably could not have known that litter or other solid waste was involved; and

(4) the defendant did not receive, directly or indirectly, compensation for the receipt, storage, processing, or treatment.

SECTION 4. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 1993.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 11, 1993, by a non-record vote; passed by the Senate on May 30, 1993, by a viva-voce vote.

Approved June 16, 1993.

Effective Sept. 1, 1993.