

8-6-401. Title.

This subchapter shall be cited and known as the "Litter Control Act".

History. Acts 1977, No. 883, § 1; A.S.A. 1947, § 82-3901.

8-6-402. Purpose.

The purpose of this subchapter is to accomplish the control of litter, inoperative household appliances, and junk motor vehicles throughout the state by regulating their disposal. The intent of this subchapter is to add to existing litter control, removal, and enforcement efforts and not to terminate or supplant such efforts, as well as the compatible goal of improving the quality of life for all the citizens of Arkansas.

History. Acts 1977, No. 883, § 1; A.S.A. 1947, § 82-3901.

8-6-403. Definitions.

As used in this subchapter, unless the context otherwise requires:

- (1) "Abandoned" means property to which no person claims or exercises right of ownership;
- (2) "Automobile repair shop" means any business which engages in the repair or servicing of vehicles;
- (3) "Commercial littering" includes, but is not limited to, littering done by commercial businesses and manufacturing companies of every kind and description, including those businesses and persons who illegally dispose of litter or solid waste for other persons in return for money, fees, or other compensation;
- (4) "Demolisher" means any person whose business, to any extent or degree, is to convert a motor vehicle or household appliance into processed scrap or scrap metal, into saleable parts, or otherwise to wreck or dismantle vehicles or appliances;
- (5) "Disposable package or container" means all items or materials designed or intended to contain another item or product, but not designed or intended for permanent or continued use;
- (6) "Enclosed building" means a structure surrounded by walls or one (1) continuous wall and having a roof enclosing the entire structure and includes a permanent appendage to the structure;
- (7) "Household appliance" includes, but is not limited to, refrigerators, freezers, ranges, stoves, automatic dishwashers, clothes washers, clothes dryers, trash compactors, television sets, radios, hot water heaters, air conditioning units, commodes and other plumbing fixtures, and bed springs or other furniture;
- (8) "Inoperative household appliance" means a discarded household appliance which by reason of mechanical or physical defects can no longer be used for its intended purpose and which is not serving a functional purpose;
- (9) "Junk motor vehicle" means any vehicle which is inoperable, dismantled, or damaged and that is unable to start and move under its own power. Vehicles are excluded as long as they are registered and bear a current license permit;
- (10)(A) "Litter" means all waste material which has been discarded or otherwise disposed of as prohibited in this subchapter, including, but not limited to, convenience food and beverage packages or containers, trash, garbage, all other product packages or containers, and other postconsumer solid wastes.

(B) Litter does not include wastes from the primary processing of mining, logging, sawmilling, or farming, the raising of poultry, manufacturing, or wastes deposited in proper receptacles;
- (11) "Old vehicle tire" means a pneumatic tire in which compressed air is designed to support a load, but which because of wear, damage, or defect can no longer safely be used on a motor vehicle and which is either not serving a functional purpose or use or is not in an enclosed building, a salvage yard, or the actual possession of a demolisher;
- (12) "Public place" means any area that is used or held out for use by the public, whether owned or operated by public or private interests;
- (13) "Salvage yard" means any business that, in the course of its operation, maintains ten (10) or more vehicles to be used, wholly or in parts, to generate revenue for the operation of the business; and

(14) "Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

History. Acts 1977, No. 883, § 2; A.S.A. 1947, § 82-3902.

8-6-404. Penalties.

(a)(1)(A)(i) A person convicted of a violation of § [8-6-406](#) or § [8-6-407](#) for a first offense shall be guilty of an unclassified misdemeanor and shall be fined in an amount of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000).

(ii) An additional sentence of not more than eight (8) hours of community service shall be imposed under this subdivision (a)(1)(A).

(B)(i) A person convicted of a violation of § [8-6-406](#) or § [8-6-407](#) for a second or subsequent offense within three (3) years of the first offense shall be guilty of an unclassified misdemeanor and shall be fined in an amount of not less than two hundred dollars (\$200) and not more than two thousand dollars (\$2,000).

(ii) An additional sentence of not more than twenty-four (24) hours of community service may be imposed under this subdivision (a)(1)(B).

(2) In addition to those penalties, any violator may also be required to remove litter from alongside highways and at other appropriate locations for any prescribed period.

(b) Any person who violates § [8-6-406](#) or § [8-6-407](#) and who is found to have committed the prohibited acts in furtherance of or as a part of a commercial enterprise, whether or not that enterprise is the disposal of wastes, shall be guilty of commercial littering and shall be guilty of a Class A misdemeanor. Additionally, those convicted may be required to remove any litter disposed of in violation of this subchapter.

(c) Any person who violates any provision of § [8-6-408](#) shall be guilty of:

(1) An unclassified misdemeanor for a first offense and shall be fined one thousand dollars (\$1,000) and sentenced to one hundred (100) hours of community service; and

(2) A Class A misdemeanor for a second or subsequent offense.

(d)(1) All or any portion of the fines, community service, and imprisonment penalties provided by this section may be suspended by the judge if the violator agrees to remove litter from alongside highways and at other appropriate locations for a prescribed period.

(2) All fines collected under this section shall be deposited as follows:

(A) If a municipality or county where the offense occurs is a certified affiliate of Keep Arkansas Beautiful or Keep America Beautiful, Inc., and participates in litter control programs conducted by these organizations, then the moneys from fines collected for offenses in that jurisdiction shall be deposited, according to accounting procedures prescribed by law, into the city general fund or the county general fund to be used for the purpose of community improvement as determined by the municipal or county governing body; or

(B) If the municipality or county where the offense occurs is not a certified affiliate of Keep Arkansas Beautiful or Keep America Beautiful, Inc., or does not participate in litter-control programs conducted by these organizations, then the moneys from fines collected for offenses in those jurisdictions shall be remitted by the tenth day of each month to the Administration of Justice Fund Section of the Office of Administrative Services of the Department of Finance and Administration, on a form provided by that office, for deposit in the Keep Arkansas Beautiful Fund Account to be used by the Keep Arkansas Beautiful Commission, as appropriated by the General Assembly, for the purposes of encouraging litter prevention

and antilitter education and increasing awareness of litter law enforcement statewide.

(e) In addition to all other penalties, any person convicted of a violation of § [8-6-406](#) or § [8-6-407](#) who fails to pay any fines assessed in accordance with the findings and orders of the court shall have his or her driver's license suspended for six (6) months by the Department of Finance and Administration, upon receipt of an order of denial of driving privileges from the court pursuant to this section.

History. Acts 1977, No. 883, §§ 7, 11; 1981, No. 841, §§ 1, 2; A.S.A. 1947, §§ 82-3907, 82-3911; Acts 1993, No. 727, § 1; 1995, No. 979, § 1; 2001, No. 145, § 1; 2003, No. 1765, § 3; 2005, No. 646, § 1.

8-6-405. Injunction.

In addition to all other remedies provided by this subchapter, the Arkansas Department of Environmental Quality, the Attorney General of this state, the prosecuting attorney of a county where any violation of any provision of this subchapter occurs, or any citizen, resident, or taxpayer of the county where a violation of any provision of this subchapter occurs may apply to the chancery court or the judge in vacation of the county where the alleged violation occurred for an injunction to restrain, prevent, or abate the maintenance and storage of litter, junk motor vehicles, old vehicle tires, or inoperative or discarded household appliances in violation of any provision of this subchapter.

History. Acts 1977, No. 883, § 16; A.S.A. 1947, § 82-3916; Acts 1991, No. 516, § 1; 1999, No. 1164, § 64.

8-6-406. Unlawful to litter - Exceptions.

It shall be unlawful to drop, deposit, discard, or otherwise dispose of litter upon any public or private property in this state or upon or into any river, lake, pond, or other stream or body of water within this state, unless:

(1) The property has been designated by the Arkansas Department of Environmental Quality as a permitted disposal site;

(2) The litter is placed into a receptacle intended by the owner or tenant in lawful possession of that property for the deposit of litter, if it is deposited in such a manner as to prevent the litter from being carried away or deposited by the elements upon any part of the private or public property or waters; or

(3)(A) The person is the owner or tenant in lawful possession of the property and the litter remains upon the property and the act does not create a public health or safety hazard, a public nuisance, or a fire hazard.

(B) However, a property owner shall not be held responsible for actions of his tenant.

History. Acts 1977, No. 883, § 4; A.S.A. 1947, § 82-3904; Acts 1999, No. 1164, § 65.

8-6-407. Commercial refuse hauling by uncovered vehicles.

It shall be unlawful for any person engaged in commercial or for-hire hauling to operate any truck or other vehicle within this state to transport litter, trash, or garbage unless the vehicle is covered to prevent its contents from blowing, dropping, falling off, or otherwise departing from the vehicle. In addition, any person operating his own truck or other vehicle to transport litter, trash, or garbage shall take reasonable steps to prevent its contents from blowing, dropping, falling off, or otherwise departing from the vehicle. However, no vehicle hauling predominately metallic material shall be required to be covered if it is loaded in a manner which will prevent the material from falling or dropping from the vehicle.

History. Acts 1977, No. 883, § 6; A.S.A. 1947, § 82-3906.

8-6-408. Discarding certain items prohibited.

It shall be unlawful for any person to place or cause to be placed any junk motor vehicle, old vehicle tire, or inoperative or abandoned household appliance, or part thereof, upon the right-of-way of any public highway, upon any other public property, or upon any private property which he does not own, lease, rent, or otherwise control, unless it is at a salvage yard, a permitted disposal site, or at the business establishment of a demolisher.

History. Acts 1977, No. 883, § 10; A.S.A. 1947, § 82-3910.

8-6-409. Prima facie evidence against drivers.

If the throwing, dumping, or depositing of litter was done from a motor vehicle, except a motor bus, it shall be prima facie evidence that the throwing, dumping, or depositing was done by the driver of the motor vehicle.

History. Acts 1977, No. 883, § 5; A.S.A. 1947, § 82-3905.

8-6-410. Notice to the public required.

The state shall erect signs containing pertinent portions of this subchapter along the public highways of this state and in all campgrounds and trailer parks, forestlands, and recreational areas, at all public beaches, and at other public places where persons are to be informed of the existence and content of this subchapter and the penalties for violating its provisions.

History. Acts 1977, No. 883, § 8; A.S.A. 1947, § 82-3908.

8-6-411. Litter receptacles.

The state shall place litter receptacles along public highways in appropriate numbers to provide motorists with convenient methods of litter disposal.

History. Acts 1977, No. 883, § 9; A.S.A. 1947, § 82-3909.

8-6-412. Enforcement generally.

(a) All Arkansas-certified law enforcement officers:

(1) Shall enforce the provisions of this subchapter;

(2) Are empowered to issue citations to or arrest persons violating any provision of this subchapter; and

(3)(A) May serve and execute all warrants, citations, and other process issued by the courts in enforcing the provisions of this subchapter.

(B) In addition, mailing by registered mail of the process to the person's last known place of residence shall be deemed as personal service upon the person charged.

(b)(1) Illegal dumps control officers licensed and certified in accordance with § 8-6-905:

(A) May enforce the provisions of this subchapter; and

(B) Are empowered to issue citations to persons violating this subchapter.

(2) However, illegal dumps control officers may not:

(A) Have the powers of arrest;

(B) Carry firearms; or

(C) Take any other official law enforcement actions.

(c)(1) All certified law enforcement officers may serve and execute all warrants, citations, and other process issued by the courts in enforcing the provisions of this subchapter.

(2) In addition, mailing by registered mail of the process to the person's last known place of residence shall be deemed as personal service upon the person charged.

History. Acts 1977, No. 883, § 3; A.S.A. 1947, § 82-3903; Acts 1999, No. 386, § 1; 2005, No. 75, § 1.

8-6-413. Authority to take possession of discarded items - Notice.

(a)(1) Any enforcement agency described in § [8-6-412](#) which has knowledge of, discovers, or finds any junk motor vehicle, old vehicle tire, or inoperative or discarded household appliance on either public or private property may take it into custody and possession.

(2) The enforcement agency may employ its own personnel, equipment, and facilities or hire persons, equipment, and facilities for the purpose of removing, preserving, and storing junk motor vehicles, old vehicle tires, or inoperative or abandoned household appliances.

(b)(1) However, before taking any junk motor vehicle into custody and possession from private property, the enforcement agency shall give the private property owner and the owner of the motor vehicle, if ascertainable, thirty (30) days' notice by registered or certified mail or seventy-two (72) hours' notice by personal service that such an action will be taken unless the motor vehicle is:

(A) Restored to a functional use;

(B) Disposed of by the owner in a manner not prohibited by this subchapter; or

(C) Placed in an enclosed building.

(2) The thirty days' or seventy-two (72) hours' notice under subdivision (b)(1) of this section may be waived by the owners of the property.

History. Acts 1977, No. 883, § 12; A.S.A. 1947, § 82-3912; Acts 2005, No. 1222, § 1.

8-6-414. Notification to motor vehicle owner and lienholders - Reclamation.

(a)(1) The enforcement agency which takes into custody and possession any junk motor vehicle, within thirty (30) days after taking custody and possession thereof, shall notify the last known registered owner of the motor vehicle and all lienholders of record that the motor vehicle has been taken into custody and possession.

(2) The notification shall be by registered or certified mail, return receipt requested.

(3) The notice shall:

(A) Contain a description of the motor vehicle, including the year, make, model, manufacturer's serial or identification number, or any other number which may have been assigned to the motor vehicle by the Office of Motor Vehicle and shall note any distinguishing marks;

(B) Set forth the location of the facility where the motor vehicle is being held and the location where the motor vehicle was taken into custody and possession; and

(C) Inform the owner and any lienholders of record of their right to reclaim the motor vehicle within ten (10) days after the date notice was received by the owner or lienholders upon payment of all towing, preservation, and storage charges resulting from taking and placing the motor vehicle into custody and possession and state that the failure of the owner or lienholders of record to exercise their right to reclaim the motor vehicle within the ten-day period shall be deemed a waiver by the owner and all lienholders of record of all right, title, and interest in the motor vehicle and of their consent to the sale or disposal of the junk motor vehicle at a public auction or to a salvage yard or demolisher.

(b)(1) If the identity of the last registered owner of the junk motor vehicle cannot be determined, if the certificate of registration or certificate of title contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, then notice shall be published in a newspaper of countywide circulation in the county wherein the motor vehicle was located at the time the enforcement agency took custody and possession of the vehicle.

(2) This notice shall be sufficient to meet all requirements of notice pursuant to this section.

(3) Any notice by publication may contain multiple listings of junk motor vehicles.

(4) The notice shall be published within thirty (30) days after the motor vehicle is taken into custody and possession.

(5) The notice shall have the same contents required for a notice pursuant to subsection (a) of this section, except that the ten-day period shall run from the date such notice is published as prescribed.

(c) The consequences and effect of failure to reclaim a junk motor vehicle within the ten-day period after notice is received by registered or certified mail or within ten (10) days after the notice is published in a newspaper as prescribed shall be set forth in the notice.

History. Acts 1977, No. 883, § 13; A.S.A. 1947, § 82-3913.

8-6-415. Sale of junked vehicles and discarded items.

(a) If a junk motor vehicle is not reclaimed as provided for in § [8-6-414](#), the enforcement agency in possession of the junk motor vehicle shall sell it either at a public auction or to a salvage yard or demolisher. The purchaser of the motor vehicle shall take title to the motor vehicle free and clear of all liens and claims of ownership and shall receive a sales receipt from the enforcement agency which disposed of the motor vehicle. The sales receipt at the sale shall be sufficient title only for purposes of transferring the motor vehicle to a salvage yard or to a demolisher for demolition, wrecking, or dismantling. No further titling of the motor vehicle shall be necessary by either the purchaser at the auction, the salvage yard, or the demolisher, who shall be exempt from the payment of any fees and taxes.

(b) When an enforcement agency has in its custody and possession old vehicle tires or inoperative or discarded household appliances collected in accordance with § [8-6-413](#), it shall sell property, from time to time, at public auction or to a salvage yard or demolisher.

History. Acts 1977, No. 883, § 14; A.S.A. 1947, § 82-3914.

8-6-416. Disposition of sale proceeds.

(a) From the proceeds of any sale, the enforcement agency which sold the junk motor vehicle, old vehicle tire, or inoperative or discarded household appliance shall reimburse itself for any expenses it may have incurred in removing, towing, preserving, and storing the property and for the expenses of conducting any auction and any notice and publication expenses incurred pursuant to this subchapter.

(b) Any remainder from the proceeds of the sale shall be deposited in the State Treasury to be kept and maintained in the Litter Control Account. Any remainder from the proceeds of the sale of a junk motor vehicle after payment of the expenses shall be held for the last registered owner of the motor vehicle or any lienholder for ninety (90) days, after which time, if no owner or lienholder claims the remainder, it shall be deposited in the special fund.

(c) Any moneys so collected and deposited in the Litter Control Account shall be used solely for the payment of auction, towing, removing, preserving, storing, notice, and publication costs which result from taking other junk motor vehicles, old vehicle tires, and inoperative or discarded household appliances into custody and possession.

History. Acts 1977, No. 883, § 15; A.S.A. 1947, § 82-3915.

8-6-417. [Repealed.]

8-6-418. Possession or use of glass containers on navigable waterways.

(a)(1) Except for containers for medicinal substances contained in a first-aid kit or prescribed by a licensed physician, and except as provided under subdivision (a)(2) of this section, no person shall possess or use glass containers within a vessel within the banks of Arkansas' navigable waterways.

(2) A person engaged in removing glass previously discarded by others and found within the banks of an Arkansas navigable waterway may not be charged with a violation of this section on the basis of possession of glass, if while underway and upon a waterway, he or she transports the removed glass securely in a trash container.

(b)(1) A person entering, traveling upon, or otherwise using Arkansas' navigable waterways by canoe, kayak, inner tube, or other vessel easily susceptible to swamping, tipping, rolling, or otherwise discharging its contents into a waterway, and transporting foodstuffs or beverages shall:

(A) Transport all foodstuffs and beverages in a sturdy container and ensure that the container is made to seal or lock in the contents to prevent the contents from spilling into the water;

(B)(i) Carry and affix to the vessel a trash container or bag suitable for containing his or her refuse, waste, and trash materials and capable of being securely closed.

(ii) The trash container or bag shall be either a sturdy container, of a construction similar to a sturdy container, or a bag of mesh construction;

(C)(i) Except as provided under subdivision (b)(1)(C)(ii) of this section, transport all his or her refuse, waste, and trash either in a sturdy container or in a trash container to a place where the refuse, waste, and trash may be safely and lawfully disposed of.

(ii) A person engaged in removing items of refuse, waste, and trash materials previously discarded by others and found by him or her within the banks of an Arkansas navigable waterway and that are too large to be transported in a trash container or bag, may not be charged with a violation of this section on the basis of possession and transportation of the refuse, waste, and trash; and

(D) At all times other than when a beverage is securely contained in a sturdy container or a trash container as in subdivisions (b)(1)(A)-(C) of this section, keep the beverage attached to or held within a floating holder or other device designed to prevent the beverage from sinking beneath the surface of the waterway.

(2) Neither a sturdy container nor a trash container may be required of a person traveling without foodstuffs or beverages.

(c)(1) A violation of this section shall be a misdemeanor and each violation may be prosecuted as a separate offense.

(2) Each violation shall be punishable by a fine of not more than five hundred dollars (\$500).

(d) For purposes of this section:

(1) "Navigable waterway" means any navigable river, lake, or other body of water used or susceptible to being used in its natural condition by canoe, kayak, innertube, or other vessel easily susceptible to swamping, tipping, or rolling and located wholly or partly within this state;

(2) "Sturdy container" shall not include a container that is:

(A) Primarily constructed of styrofoam; or

(B) So constructed that it may be easily broken; and

(3) "Vessel" shall not include a houseboat, party barge, johnboat, runabout, ski boat, bass boat, or similar craft not easily susceptible to swamping, tipping, or rolling.

History. Acts 2001, No. 803, § 1; 2003, No. 1101, § 1.