WEST VIRGINIA CODE: §22-15A-4

§22-15A-4. Unlawful disposal of litter; civil and criminal penalty; Litter Control Fund; evidence; notice violations; litter receptacle placement; penalty; duty to enforce violations.

(a) (1) A person may not place, deposit, dump, throw, or cause to be placed, deposited, dumped, or thrown any litter as defined in §22-15A-2 of this code, in or upon any public or private highway, road, street, or alley; any private property; any public property; or the waters of the state or within 100 feet of the waters of this state, except in a proper litter or other solid waste receptacle.

(2) A person may not place, deposit, dump, throw, or cause to be placed, deposited, dumped, or thrown any litter from a motor vehicle or other conveyance or perform any act which constitutes a violation of the motor vehicle laws contained in §17C-14-14 of this code.

(3) If any litter is placed, deposited, dumped, discharged, thrown, or caused to be placed, deposited, dumped, or thrown from a motor vehicle, boat, airplane, or other conveyance, it is prima facie evidence that the owner or the operator of the motor vehicle, boat, airplane, or other conveyance intended to violate the provisions of this section.

(4) Any person who violates the provisions of this section by placing, depositing, dumping, or throwing or causing to be placed, deposited, dumped, or thrown any litter on his or her private property in an amount not exceeding 50 pounds in weight is not subject to the criminal provisions of this section.

(5) Any person who violates the provisions of this section by placing, depositing, dumping, or throwing or causing to be placed, deposited, dumped, or thrown any litter, not collected for commercial purposes, in an amount not exceeding 100 pounds in weight or 27 cubic feet in size, is guilty of a misdemeanor. Upon conviction, he or she is subject to a fine of not less than $100 nor more than $2,500, or in the discretion of the court, sentenced to perform community service by cleaning up litter from any public highway, road, street, alley, or any other public park or public property, or waters of the state, as designated by the court, for not less than eight nor more than 100 hours, or both. If any person is convicted of the misdemeanor by placing, depositing, dumping, or throwing litter in the waters of the state, that person shall be fined not less than $500 nor more than $3,000, or in the discretion of the court sentenced to perform community service by cleaning up litter from any waters of the state, as designated by the court, for not less than 20 hours nor more than 120 hours, or both.

(6) Any person who violates the provisions of this section by placing, depositing, dumping, or throwing or causing to be placed, deposited, dumped, or thrown any litter, not collected for commercial purposes, in an amount greater than 100 pounds in weight or 27 cubic feet in size, but less than 500 pounds in weight or 216 cubic feet in size is guilty of a misdemeanor.

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Upon conviction, he or she is subject to a fine of not less than $2,500 nor more than $5,000, or in the discretion of the court, may be sentenced to perform community service by cleaning up litter from any public highway, road, street, alley, or any other public park or public property, or waters of the state, as designated by the court, for not less than 16 hours nor more than 200 hours, or both. If any person is convicted of the misdemeanor by placing, depositing, dumping, or throwing litter in the waters of the state, that person shall be fined not less than $3,000 nor more than $5,500, or in the discretion of the court sentenced to perform community service by cleaning up litter from any waters of the state, as designated by the court, for not less than 20 hours nor more than 220 hours, or both.

(7) Any person who violates the provisions of this section by placing, depositing, dumping, or throwing or causing to be placed, deposited, dumped, or thrown any litter in an amount greater than 500 pounds in weight or 216 cubic feet in size or any amount which had been collected for commercial purposes is guilty of a misdemeanor. Upon conviction, the person shall be fined not less than $2,500 nor more than $25,000 or confinement in jail for not more than one year, or both. If any person is convicted of the misdemeanor by placing, depositing, dumping, or throwing litter in the waters of the state, that person shall be fined not less than $3,000 nor more than $11,000, or confinement in jail for not more than one year, or both. In addition, he or she may be guilty of creating or contributing to an open dump as defined in §22-15-2 of this code and subject to the enforcement provisions of §22-15-15 of this code.

(8) Any person convicted of a second or subsequent violation of this section is subject to double the authorized range of fines and community service for the subsection violated.

(9) The sentence of litter clean up shall be verified by environmental inspectors from the Department of Environmental Protection. Any defendant receiving the sentence of litter clean up shall provide, within a time to be set by the court, written acknowledgment from an environmental inspector that the sentence has been completed and the litter has been disposed of lawfully.

(10) Any person who has been found by the court to have willfully failed to comply with the terms of a litter clean-up sentence imposed by the court pursuant to this section is subject to, at the discretion of the court, double the amount of the original fines and community service penalties originally ordered by the court.

(11) All law-enforcement agencies, officers, and environmental inspectors shall enforce compliance with this section within the limits of each agency’s statutory authority.

(12) A magistrate or municipal court judge may not dismiss an action brought under the provisions of this section without notification to the prosecuting attorney of that county of his or her intention to do so and affording the prosecuting attorney an opportunity to be heard.

(13) No portion of this section restricts an owner, renter, or lessee in the lawful use of his or her own private property or rented or leased property or prohibits the disposal of any

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industrial and other wastes into waters of this state in a manner consistent with the provisions of §22-11-1 *et seq*. of this code. But if any owner, renter, or lessee, private or otherwise, knowingly permits any of these materials or substances to be placed, deposited, dumped, or thrown in a location that high water or normal drainage conditions will cause these materials or substances to wash into any waters of the state, it is prima facie evidence that the owner, renter, or lessee intended to violate the provisions of this section: *Provided,* That if a landowner, renter, or lessee, private or otherwise, reports any placing, depositing, dumping, or throwing of these substances or materials upon his or her property to the prosecuting attorney, county commission, the Division of Natural Resources, or the Department of Environmental Protection, the landowner, renter, or lessee will be presumed to not have knowingly permitted the placing, depositing, dumping, or throwing of the materials or substances.

(b) Any indication of ownership found in litter is prima facie evidence that the person identified violated the provisions of this section: *Provided,* That no inference may be drawn solely from the presence of any logo, trademark, trade name, or other similar mass reproduced things of identifying character appearing on the found litter.

(c) (1) Every person who is convicted of or pleads guilty to disposing of litter in violation of subsection (a) of this section shall pay a civil penalty of not less than $200 nor more than $2,000 as costs for clean up, investigation, and prosecution of the case, in addition to any other court costs that the court is otherwise required by law to impose upon a convicted person.

(2) The clerk of the circuit court, magistrate court, or municipal court in which these additional costs are imposed shall, on or before the last day of each month, transmit 50 percent of a civil penalty received pursuant to this section to the State Treasurer for deposit in the State Treasury to the credit of a special revenue fund known as the Litter Control Fund which was transferred to the Department of Environmental Protection. Expenditures for purposes set forth in this section are not authorized from collections but are to be made only in accordance with appropriation and in accordance with the provisions of §12-3-1 *et seq.* of this code and upon fulfillment of the provisions set forth in §5A-2-1 *et seq.* of this code. Amounts collected which are found from time to time to exceed the funds needed for the purposes set forth in this article may be transferred to other accounts or funds and designated for other purposes by appropriation of the Legislature.

(d) The remaining 50 percent of each civil penalty collected pursuant to this section shall be transmitted to the county or regional solid waste authority in the county where the litter violation occurred. Moneys shall be expended by the county or regional solid waste authority for the purpose of litter prevention, clean up, and enforcement. The county commission shall cooperate with the county or regional solid waste authority serving the respective county to develop a coordinated litter control program pursuant to §22C-4-8 of this code.

(e) The Commissioner of the Division of Motor Vehicles, upon registering a motor vehicle or issuing an operator’s or chauffeur’s license, shall issue to the owner or licensee, as the case

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may be, a summary of this section and §17C-14-14 of this code.

(f) The Commissioner of the Division of Highways shall cause appropriate signs to be placed at the state boundary on each primary and secondary road, and at other locations throughout the state, informing those entering the state of the maximum penalty provided for disposing of litter in violation of subsection (a) of this section.

(g) Any state agency or political subdivision that owns, operates, or otherwise controls any public area designated by the secretary by rule promulgated pursuant to §22-15A-3(a)(8) of this code shall procure and place litter receptacles at its own expense upon its premises and shall remove and dispose of litter collected in the litter receptacles. After receiving two written warnings from any law-enforcement officer or officers to comply with this subsection or the rules of the secretary, any state agency or political subdivision that fails to place and maintain the litter receptacles upon its premises in violation of this subsection or the rules of the secretary shall be fined $30 per day of the violation.

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