



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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**Bill Number:** H. 4458 Signed by Governor on May 18, 2018  
**Author:** Johnson  
**Subject:** Littering  
**Requestor:** House of Representatives  
**RFA Analyst(s):** Gardner  
**Impact Date:** July 25, 2018

**Estimate of Fiscal Impact**

|                                  | <b>FY 2018-19</b> | <b>FY 2019-20</b> |
|----------------------------------|-------------------|-------------------|
| <b>State Expenditure</b>         |                   |                   |
| General Fund                     | \$0               | \$0               |
| Other and Federal                | \$0               | \$0               |
| Full-Time Equivalent Position(s) | 0.00              | 0.00              |
| <b>State Revenue</b>             |                   |                   |
| General Fund                     | Undetermined      | \$0               |
| Other and Federal                | \$0               | \$0               |
| <b>Local Expenditure</b>         | Undetermined      | \$0               |
| <b>Local Revenue</b>             | Undetermined      | \$0               |

**Fiscal Impact Summary**

This bill will have no expenditure impact on the General Fund, Other Funds, or Federal Funds as the Judicial Department, Prosecution Coordination Commission, Commission on Indigent Defense, indicate that any additional expenses associated with increased caseloads in circuit courts can be managed within existing appropriations.

The Department of Public Safety indicates that any costs from implementing a reporting system can be managed within the agency’s existing appropriations.

The impact on General Fund revenue, local government expenditures, and local government revenue is undetermined as the number of additional cases that may be tried in magistrate and municipal courts due to the addition of second and subsequent offenses for littering convictions is unknown.

**Explanation of Fiscal Impact**

**Signed by Governor on May 18, 2018**

**State Expenditure**

The bill restructures provisions related to the illegal dumping of litter on private and public property and waters of the state. Previously, illegal dumping violations were misdemeanor offenses that may assess monetary penalties, prison terms, and litter-gathering public service hours. This bill expands the definition of solid waste and litter to include “cigarettes and cigarette component litter” rather than the previous “cigarettes and cigarette filters.” The bill also exempts littering on private property by the property’s legal owner or by a person granted permission by the owner.

Previously, littering violations were categorized by weight. Preceding law established that depositing a collection of litter or garbage (regardless of specific weight or volume) in an area or facility not intended for public deposit carried a fine of \$1,000. This bill removes any references to volume in cubic feet leaving only references to the weight of the material deposited. This bill changes the fine for littering in an amount weighing 15 pounds or less to \$25 - \$100 rather than the previous \$200. The bill removes references to “public” service and requires that the mandatory 8 hour service component be either litter gathering or “community” service. In addition, repeat violations of littering 15 pounds or less will no longer be subject to enhanced penalties.

The bill assigns a different fine to persons that deposit a collection of litter or garbage in particular areas or facilities not intended for public deposit. This subsection specifies that the deposit of garbage must not exceed 15 pounds in weight and changes the fine to not less than \$50 nor more than \$150. Violators must also perform a minimum of 16 hours of litter-gathering labor or other community service. The following items are specifically referenced within this subsection: cigarette butts and components, beverage containers, plastic bottles, plastic containers, solid waste, white goods, yard trash, and construction and demolition debris.

The bill alters the definition of the offense of littering more than 15 pounds but less than 500 pounds by specifically defining the types of property covered, which includes waterways. The bill amends the first offense by reducing the potential jail time for convictions from not more than 90 days to not more than 30 days and adds a mandatory requirement for at least 16 hours of litter-gathering labor or other community service. The bill expands the sentencing for second and third convictions to include the following:

- Second offense violations – a fine of not more than \$200 nor more than \$500 or imprisonment for not more than 30 days, along with 24 hours of mandatory litter-gathering labor or other community service.
- Third or subsequent offenses – a fine of not more than \$200 nor more than \$500 or imprisonment for not more than 30 days, along with 32 hours of mandatory litter-gathering labor or other community service.

The bill also specifies that illegal dumping consists of the disposal of more than 15 pounds of any solid waste, litter, or other materials, including discarded, deceased animals or animal parts, which would constitute a public health hazard. The bill gives magistrate and municipal courts jurisdiction over all violations, including cases which cover dumping in excess of 500 pounds and carry a potential jail sentence of up to one year. Furthermore, the bill enables local governments to retain their authority to enforce ordinances related to the upkeep of property and specifies that in cases of conflict between rules, the Solid Waste Policy and Management Act takes legal precedence over the provisions established by the bill.

**Judicial Department.** The department indicates that any additional expenditures associated with increased caseloads can be absorbed within existing appropriations.

**Prosecution Coordination Commission.** The department indicates that any additional expenditures associated with increased caseloads can be absorbed within existing appropriations.

**Commission on Indigent Defense.** The department indicates that any additional expenditures associated with increased caseloads can be absorbed within existing appropriations.

**Department of Public Safety.** The department indicates that any additional costs from implementing a reporting system can be managed within the agency's existing appropriations.

### **State Revenue**

This bill adds penalties and imprisonment time for second and subsequent convictions associated with the dumping of litter. Although these cases will be tried in magistrate and municipal courts, existing law distributes revenue generated from fines, assessments, and surcharges imposed for convictions in magistrate and municipal courts among the General Fund, specified state agencies and programs, and local governments. Since the number of additional cases that may be assigned to magistrate and municipal courts pursuant to convictions of second and subsequent offenses is unknown, the revenue impact on the General Fund is undetermined.

### **Local Expenditure**

This bill gives magistrate and municipal courts jurisdiction over all violations of dumping litter and adds penalties for second and subsequent convictions. For a second conviction, the person must be fined not less than \$200 nor more than \$500 or imprisoned for not more than 30 days. In addition, the court shall require the violator to complete 24 hours of litter-gathering labor or other community service. For a third or subsequent conviction, the person must be fined not less than \$200 nor more than \$500 or imprisoned for not more than 30 days. Additionally, the court shall require the violator to complete 32 hours of litter-gathering labor or other community service.

The Judicial Department indicates that there were approximately 1,000 prosecutions brought in magistrate and municipal courts during FY 2016-17 due to the illegal dumping of litter on private or public property. However, the number of additional cases that may be tried in magistrate and municipal courts due to the addition of the penalties and imprisonment for second and subsequent offenses associated with this bill is undetermined. As a result, the bill's expenditure impact on local law enforcement, proceedings in magistrate and municipal courts, and local detention facilities is undetermined.

### **Local Revenue**

This bill gives magistrate and municipal courts jurisdiction over all violations of dumping litter and adds penalties for second and subsequent convictions associated with the dumping of litter. For a second conviction, the person must be fined not less than \$200 nor more than \$500 or imprisoned for not more than 30 days. In addition, the court shall require the violator to complete 24 hours of litter-gathering labor or other community service. For a third or subsequent conviction, the person must be fined not less than \$200 nor more than \$500 or imprisoned for not more than 30 days. Additionally, the court shall require the violator to complete 32 hours of litter-gathering labor or other community service.

The Judicial Department indicates that there were approximately 1,000 prosecutions brought in magistrate and municipal courts during FY 2016-17 due to the illegal dumping of litter on private or public property. Existing law distributes revenue generated from fines, assessments, and surcharges imposed for conviction in magistrate and municipal courts among the General Fund, specified state

agencies and programs, and local governments. Since the number of additional cases that may be tried in magistrate and municipal courts due to second and subsequent offenses is unknown, the revenue impact on local governments is undetermined.

Persons convicted of littering offenses in general sessions or family courts must pay 107.5 percent of the fine imposed as an assessment. The assessment is based on the portion of the fine that is not suspended and may not be waived, reduced, or suspended. The assessment is paid to the clerk of court in the county in which the criminal judgment is rendered for remittance to the State Treasurer. The county will retain 35.35 percent of the assessment amount to use for the provision of services for the victims of crime. The State Treasurer will deduct from the collected assessment monies all amounts required to fund the State Auditor's Office to conduct audits of local governments and local courts, as well as amounts required to fund annual training for counties, municipalities, and court employees on the collection and distribution of assessments, surcharges, fees, fines, forfeitures, escheatments, or other monetary penalties imposed or mandated in family court, circuit court, magistrates court, and municipal court. Thereafter, the State Treasurer will deposit the balance of assessments received as follows:

- 42.08 percent for programs related to Probation, Parole and Pardon;
- 14.74 percent to the Law Enforcement Training Council;
- 0.45 percent to the Department of Public Safety;
- 14.46 percent to the Office of Indigent Defense;
- 11.83 percent for the Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund;
- 15.39 percent to the General Fund;
- 0.89 percent to the Office of the Attorney General; and
- 0.16 percent to the Office of the State Treasurer.

Persons convicted of littering offenses in magistrates courts must pay 107.5 percent of the fine imposed as an assessment. The assessment is based on the portion of the fine that is not suspended and may not be waived, reduced, or suspended. The assessment is paid to the clerk of court in the county in which the criminal judgment is rendered for remittance to the State Treasurer. The county will retain 11.16 percent of the assessment amount to use for the provision of services for the victims of crime. The State Treasurer will deduct from the collected assessment monies all amounts required to fund the State Auditor's Office to conduct audits of local governments and local courts, as well as amounts required to fund annual training for counties, municipalities, and court employees on the collection and distribution of assessments, surcharges, fees, fines, forfeitures, escheatments, or other monetary penalties imposed or mandated in family court, circuit court, magistrates court, and municipal court. Thereafter, the State Treasurer will deposit the balance of assessments received as follows:

- 32.36 percent for programs related to Probation, Parole and Pardon;
- 20.72 percent to the Law Enforcement Training Council;
- 0.60 percent to the Department of Public Safety;
- 18.82 percent for the Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund;
- 15.93 percent to the General Fund;

- 10.49 percent to the Office of Indigent Defense;
- 0.92 percent to the Office of the Attorney General; and
- 0.16 percent to the Office of the State Treasurer.

Persons convicted of littering offenses in municipal courts must pay 107.5 percent of the fine imposed as an assessment. The assessment is based on the portion of the fine that is not suspended and may not be waived, reduced, or suspended. The assessment is paid to the municipal clerk of court for remittance to the State Treasurer. The county will retain 11.16 percent of the assessment amount to use for the provision of services for the victims of crime. The State Treasurer will deduct from the collected assessment monies all amounts required to fund the State Auditor's Office to conduct audits of local governments and local courts, as well as amounts required to fund annual training for counties, municipalities, and court employees on the collection and distribution of assessments, surcharges, fees, fines, forfeitures, escheatments, or other monetary penalties imposed or mandated in family court, circuit court, magistrates court, and municipal court. Thereafter, the State Treasurer will deposit the balance of assessments received as follows:

- 14.04 percent for programs related to Probation, Parole and Pardon;
- 13.89 percent to the Law Enforcement Training Council;
- 0.36 percent to the Department of Public Safety;
- 10.38 percent for the Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund;
- 11.53 percent to the General Fund;
- 10.56 percent to the Office of Indigent Defense;
- 0.89 percent to the Department of Mental Health;
- 0.54 percent to the Office of the Attorney General;
- 9.16 percent to the Department of Public Safety;
- 1.31 percent to SLED;
- 13.61 percent to the Governor's Task Force on Litter;
- 13.61 percent to the Department of Juvenile Justice; and
- 0.12 percent to the Office of the State Treasurer.




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Frank A. Rainwater, Executive Director