

Cherokee Nation Code Annotated

Title 21: Crimes and Punishments

Part VII. Crimes Against Property

Chapter 69: Malicious Mischief

§ 1761.1. Dumping, etc. of trash on public or private property prohibited—Penalties

Cite as: 21 CNCA § 1761.1

A. Any person who deliberately places, throws, drops, dumps, deposits or discards any garbage, trash, waste, rubbish, refuse, debris or other deleterious substance on any public property, on any private property of another without consent of the property owner or on his or her own private property in violation of any county or state zoning or public health regulations shall, upon conviction, be deemed guilty of a misdemeanor.

B. Any person convicted of violating the provisions of subsection (A) of this section shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

C. Any person convicted of violating the provisions of subsection A of this section with any flaming or glowing substance, or any substance which may cause a fire shall be punished by a fine of not less than Two Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars (\$5,000.00) or by imprisonment for not more than sixty (60) days, or by both such fine and imprisonment.

D. During a burn ban, any person convicted of violating the provisions of subsection A of this section with any flaming or glowing substances, or any substance which may cause a fire shall be punished by a fine of not more than Five Thousand Dollars (\$5,000.00) or by imprisonment for not more than one hundred twenty (120) days, or by both such fine and imprisonment.

E. Any person convicted of violating the provisions of subsection A of this section with any item of furniture, or item that exceeds fifty (50) pounds, shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00) or by imprisonment for not more than sixty (60) days, or by both such fine and imprisonment.

F. In addition to the penalty prescribed by subsection (B) of this section, the Court shall direct the person to make restitution to the property owner affected; to remove and properly dispose of the garbage, trash, waste, refuse or debris from the property; to pick up, remove and properly dispose of garbage, trash, waste, rubbish, refuse, debris and other nonhazardous deleterious substances from public property; or perform community service

or any combination of the foregoing which the Court, in its discretion, deems appropriate. The dates, times and locations of such activities shall be scheduled by the marshal pursuant to the order of the Court in such a manner as not to interfere with the employment or family responsibilities of the person.

G. In addition to the penalty prescribed in subsection (B) and the restitution prescribed in subsection (C), the Court may order the defendant to pay into the reward fund as prescribed in 22 CNCA § 1334 an amount not to exceed One Thousand Dollars (\$1,000.00).

H. The discovery of two or more items which have been dropped, dumped, deposited, discarded, placed, or thrown at one location which bear a common address in a form which tends to identify the latest owner of the items shall create a rebuttable presumption that any competent persons residing at such address committed the unlawful act. The discovery or use of such evidence shall not be sufficient to qualify for the reward provided in 22 CNCA § 1334.

I. Any person may report a violation of this section, if committed in his or her presence, to an officer of the State Highway Patrol, a county sheriff or deputy, a municipal law enforcement officer or any other peace officer in this state. The peace officer shall then conduct an investigation into the allegations, if warranted. If a violation of this section has in fact been committed, and the peace officer has reasonable cause to believe a particular person or persons have committed the violation, a report shall be filed with the district attorney for prosecution.

J. Notwithstanding the provisions of subsection I of this section any peace officer of this Nation or of any cross-deputized peace officer may issue a traffic citation to any person committing a violation of subsection A of this section. Such traffic citation shall be in an amount of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00).

K. The amount of bail for littering offenses specified in Section 1753.3 of this title and for trash dumping offenses specified in this section shall be the amount of fine specified in each statute plus costs.

Historical Data

LA 10–90, eff. November 13, 1990. Amended LA 10–13, eff. April 13, 2013. Amended LA 07–21, eff. February 22, 2021.