

Legislation Text

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Amending Chapter 10-700 of The Philadelphia Code, entitled “Refuse and Littering,” by further amending Section 10-719, entitled “Penalties,” to conform with legislation recently enacted by the General Assembly, all under certain terms and conditions.

WHEREAS, Philadelphia City Council has long been committed to resolving the harmful effects on neighborhoods caused by unlawful “Short Dumping”; and

WHEREAS, Council continues to believe that the potential threat of forfeiture of any vehicle involved in Short Dumping constitutes a credible deterrence to committing such Short Dumping; and

WHEREAS, by the enactment of Act 13 of 2017, the Pennsylvania General Assembly revised provisions related to asset forfeiture. Among other things, the legislation repealed 42 Pa.C.S. § 6802, which establishes procedures to follow to obtain the forfeiture of property, and replaced that provision with 42 Pa.C.S. § 5805; and

WHEREAS, The Philadelphia Code currently refers to the now-repealed provision in the “Penalties” section of the “Refuse and Littering” chapter. Council desires to update The Philadelphia Code to refer to the appropriate newly-enacted provision, thereby re-emphasizing the importance and availability of vehicle forfeiture as a penalty for Short Dumping; now, therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 10-700 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 10-700. REFUSE AND LITTERING.

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§ 10-710. Dumping of Debris and Short Dumping.

- (1) No person shall deposit, dump or cause to be placed any debris on any location without the prior written consent of the owner of such location. A violation of this subsection that is also a violation of subsection (2) may be prosecuted as a violation of subsection (2).
- (2) No owner or operator, or an agent of either, of a trash, garbage or debris collection vehicle, including private automobiles and small trucks, or any other type of vehicles used to collect or transport trash, garbage or debris, shall knowingly deposit or cause to be deposited the vehicle's load or any part thereof on any road, street, highway, alley or railroad right-of-way, or on the land of another without both the permission of the owner and all necessary licenses and permits or into the waters of the City.

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§ 10-719. Penalties.

- (1) The penalty for violation of any provision of this Chapter, except § 10-702, § 10-703(2), § 10-710, § 10-711, § 10-722, § 10-723, § 10-723.1, § 10-723.2 or § 10-717.1 shall be a minimum fine of one hundred (100) dollars and no more than three hundred (300) dollars for each violation.
- (2) The penalty for violation of § 10-710(1) of this Chapter shall be a fine of three hundred (300) dollars or such equitable remedy as the Court may deem proper, including, without limitation, an order to clean up unlawful dump sites, or both.
- (3) The penalty for violation of § 10-702, § 10-703(2), § 10-711, § 10-723, § 10-723.1 or § 10-723.2 of this Chapter shall be a fine of three hundred (300) dollars. The penalty for a violation of § 10-717.1 of this Chapter shall be a fine of five hundred (500) dollars.
- (4) The penalty for violation of Section 10-710(2) shall be:
 - (a) a fine of up to five thousand (5,000) dollars;
 - (b) the forfeiture of any property, including any vehicle, used to violate Section 10-710(2), regardless of the value of that property, pursuant to the procedures set forth in *42 Pa.C.S. § 5805*, [42 Pa. C.S. § 6802,] with the City and the City Solicitor substituted for the Commonwealth, the Attorney General and District Attorney, as appropriate; and
 - (c) such equitable remedy as the court may deem proper, including, without limitation, an order to clean up the location at which the violator dumped trash, garbage or debris or to clean up other sites where short dumping has occurred or to pay the costs of cleanup.
- (4.1) The Department of Licenses and Inspections may revoke the commercial activity license of any person, for a period not to exceed one year, for a violation of Section 10-710(2). In making a determination regarding whether and for how long to revoke, the Department shall consider the recommendation of the enforcing agency, the willfulness of the violation and any past violations.
- (5) Upon imposition of a fine or penalty against any person for violation of Section 10-710(2), the Police Department shall notify the Pennsylvania Department of Transportation, in accordance with the provisions of Act 227 of 2004, for appropriate sanctions thereunder.
- (6) The penalty for a violation of § 10-722 shall be a fine of at least three hundred dollars (\$300) and no more than one thousand five hundred dollars (\$1,500) for each violation. A violation shall subject the violator to such equitable remedy as the Court may deem proper, including, without limitation, an order to remove or clean a dumpster.
- (7) The City may seize any dumpster located in the public right-of-way that is not validly licensed under §

10-722. If the owner of such dumpster can be identified and appropriate contact information is readily available, 24 hours notice of intent to seize the dumpster shall be provided before seizure. Such dumpster shall be returned to the owner upon payment of: (i) the costs incurred by the City in seizing, transporting and storing such dumpster; and (ii) payment of a fine of one thousand five hundred dollars (\$1,500), provided that the owner shall be entitled to recovery of the dumpster pursuant to the procedures set forth in Code Section 12-2406.

- (8) Upon certification by the Department of Streets of adoption of an electronically-based notification system for immediate notification of the City's determination of violations, notices of violation of Section 10-722 served upon those who have provided an electronic address for notification purposes shall be served by such electronic means.
- (9) Each day a violation continues or is permitted to continue shall constitute a separate offense for which a separate penalty may be imposed.
- (10) Any fine or costs imposed by the court shall be entered as a judgment against the violator.
- (11) Any fine or other sanction imposed by the Court shall be paid or satisfied within ten (10) days of its imposition. If the fine or sanction together with any court cost is not paid or satisfied within such period, the violator shall be subject to proceedings for contempt of court and/or collection of the fine as provided for by law.

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SECTION 2. This Ordinance shall take effect immediately.

Explanation:

[Brackets} indicate matter deleted.
Italics indicated new matter added.