Texas Illegal Dumping Resource Center

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Simplification of Violations and Penalties in THSC Chapter 365

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THSC Chapter 365 is the most commonly used law to respond to illegal dumping in Texas. It imposes penalties (C Misdemeanors to State Jail Felonies) based on the weight or volume of the waste involved.

A “person” is defined at THSC Sec. 361.003 *(23) "Person" means an individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity.*

An “unauthorized place” is anywhere the TCEQ has NOT permitted or allows waste disposal ... including a person’s own property. THSC Sec. 365.012(l) makes SOME allowance for minor disposal on one’s own property, but it’s very restrictive.

There are seven different ways a person can break THSC Chapter 365:

1. If a person **dumps** solid waste or litter at an unauthorized place [Sec. 365.012(a)];
2. If a person **allows or permits** someone to dump waste the person generates at an unauthorized place [Sec. 365.012(a)];
3. If a person **transports** solid waste or litter to an unauthorized place for disposal [Sec. 365.012(c)];
4. If a person **receives** solid waste or liter for disposal at an unauthorized place they control (even if they don’t own the property) [Sec. 365.012(b)];
5. If a person **dumps** in somebody’s dumpster without permission [Sec. 365.012(j)];
6. If a person **attempts** to do one of these five things, but is unsuccessfully [Sec. 365.012(t)]
7. If a person **conspires** with others to do one of the first five of these [Sec. 365.012(t)].

Consequently, violators often break this law several different ways simultaneously in any dumping event, that is, by **transporting** and then **dumping**. These are separate offenses.

THE ENFORCEMENT JOB’S NOT DONE UNTIL ABATEMENT IS COMPLETE.

THSC Chapter 365 Litter Abatement Act Penalties

[Sections 365.012(d) through 365.012(g)]

I. Dumping Not Done for Commercial Purpose *(Not for "The purpose of economic gain")*

(a) 5 pounds or less; or having a volume of 5 gallons or less

Class C Misdemeanor (fine to $500);

(If done by corporation or association: Fine to $500 under Penal Code Sec. 12.51)

(b) Over 5 pounds but under 500 pounds; or over 5 gallons but less than 100 cubic feet

Class B Misdemeanor (fine to $2,000 and/or confinement to 180 days);

(If done by corporation or association: Fine to $10,000 under Penal Code Sec. 12.51)

(c) 500 pounds but under 1,000 pounds; or 100 cubic feet but less than 200 c.f.

Class A Misdemeanor (fine to $4,000 and/or confinement to 1 year);

(If done by corporation or association: Fine to $10,000 under Penal Code Sec. 12.51)

(d) 1,000 pounds or more; or 200 c.f. or more

State Jail Felony (fine to $10,000 and/or confinement of 6 months to 2 years);

(If done by corporation or association: Fine to $20,000 under Penal Code Sec. 12.51)

II. Dumping Done for Commercial Purpose *(Dumped for "The purpose of economic gain")*

(a) 5 pounds or less; or 5 gallons or less

Class C Misdemeanor (fine to $500);

(If done by corporation or association: Fine to $500 under Penal Code Sec. 12.51)

(b) Over 5 pounds but under 200 pounds; or over 5 gallons but less than 200 c.f.

Class A Misdemeanor (fine to $4,000 and/or confinement to 1 year);

(If done by corporation or association: Fine to $10,000 under Penal Code Sec. 12.51)

(c) Over 200 pounds; or 200 c.f. or more

State Jail Felony (fine to $10,000 and/or confinement of 6 months to 2 years);

(If done by corporation or association: Fine to $20,000 under Penal Code Sec. 12.51)

III. Dumped for Any Reason (Commercial or Non-Commercial)

(a) Any amount of waste in a closed drum or barrel

State Jail Felony (fine to $10,000 and/or confinement of 6 months to 2 years);

(If done by corporation or association: Fine to $20,000 under Penal Code Sec. 12.51)

ALL convictions ALSO REQUIRE 1 to 60 hours of community service, picking up litter [THSC Sec. 365.012(s)].

Felony and major misdemeanor COMMERCIAL dumping cases are often resolved through Agreed Orders that include abating 10 to 100 tons of waste dumped.