

CHAPTER NO. 504

HOUSE BILL NO. 581

By Representatives Curtiss, Henri Brooks

Substituted for: Senate Bill No. 79

By Senators Burks, Herron

AN ACT to amend Tennessee Code Annotated, Section 55-10-403, relative to the punishment for the offense of driving under the influence of an intoxicant.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-10-403 is amended by deleting the first sentence of subsection (a) and substituting instead the following:

Any person violating the provisions of § 55-10-401 shall, upon conviction thereof, for the first offense be fined not less than three hundred fifty dollars (\$350) nor more than one thousand five hundred dollars (\$1,500), the court shall prohibit such convicted person from driving a vehicle in the state of Tennessee for a period of time of one (1) year and such person shall be further punished as provided in subsection (s).

SECTION 2. Tennessee Code Annotated, Section 55-10-403, is amended by adding the following as a new subsection (s):

(s)

(1) In addition to the punishment provided in subsection (a), a person convicted of violating the provisions of § 55-10-401 for the first time, shall be punished as follows:

(A) If the person is less than twenty-one (21) years of age at the time of the offense, the court shall sentence such person to confinement in the county jail or workhouse for not less than forty-eight (48) hours nor more than eleven (11) months and twenty-nine (29) days and to remove litter during daylight hours from state route highways or state-aid highways as provided in subdivisions (2)--(9) for a period of twenty-four (24) hours to be served in three (3) shifts of eight (8) consecutive hours each.

(B) If the person is twenty-one (21) years of age or more at the time of the offense, the court shall sentence the person to confinement in the county jail or workhouse for not less than twenty-four (24) hours nor more than eleven (11) months and twenty-nine (29) days and to remove litter during daylight hours from state route highways or state-aid highways as provided in subdivisions (2)—(9) for a period of twenty-four (24) hours to be served in three (3) shifts of eight (8) consecutive hours each.

(2) A court sentencing an offender pursuant to either subdivision (A) or (B) of subdivision (1) of this subsection shall order such offender to remove litter from public highways for a period of eight (8) consecutive hours a day for three (3) days. Each of such three (3) days shall be considered confinement for purposes of application and payment of the fees set forth in § 8-26-105(a). If the offender is a resident of Tennessee, the litter removal portion of the sentence shall occur in the offender's county of residence. The court shall transmit the name and address of each offender sentenced pursuant to this subsection to the sheriff of the county in which the offender resides. The sheriff of the offender's county of residence shall notify each such offender of the date and time they are to report to the county jail for assignment on a litter removal crew. The sheriff shall schedule such assignments so that there are no less than five (5) offenders assigned to and participating in a litter removal crew at any particular time and in such a manner that each offender completes the three (3) days of litter removal within a thirty (30) day period. The days and times to which offenders are assigned for litter removal shall be days and times that the offender is off from work and will not interfere with such offender's regular employment. All such assignments shall be made for and all litter removal crews shall work only during daylight hours and only on state route highways or state-aid highways.

(3) Each offender ordered to remove litter pursuant to this subsection shall be required to wear a blaze orange or other distinctively colored vest with the words "I am a DRUNK DRIVER" stenciled or otherwise written on the back of such vest in letters no less than four inches (4") in height.

(4) Offenders sentenced pursuant to this subdivision shall be required to furnish their own clothes and food while engaged in litter removal.

(5) Upon completion of eight (8) hours of litter removal, the offender shall be permitted to return home until notified by the sheriff of the next date such offender is scheduled for litter removal duty.

(6)

(A) The sheriff shall be responsible for the supervision, transportation and control of all offenders sentenced to litter removal duty. It shall be within the discretion of the sheriff to select the state route highways or state-aid highways from which such offenders remove litter. If the highway selected is a state route highway, the department of transportation shall provide a truck or trucks to remove the litter removed by such offenders. If the highway selected is a state-aid highway, the appropriate county shall provide a truck or trucks to remove the litter removed by such offenders. Regardless of the highway selected, the sheriff shall be responsible for transportation to the litter removal site and the supervision and control of the offenders while on the site.

(B) The sheriff shall cause to be placed adequate signage on the front and back of the litter removal truck or on the side of the road approaching the litter removal crew from either direction stating that it is a "DUI Litter Pickup Crew". Such signage shall be of sufficient size and

visibility to permit motorists using such road in either direction to readily ascertain the reason for and purpose of the litter removal crew.

(7) The sheriff may enter into agreements with any city or municipality located within such county whereby offenders sentenced pursuant to this subsection may be used to remove litter from state route highways or state-aid highways located within the limits of such city or municipality. The same conditions set out in this subsection shall be applicable to offenders removing litter pursuant to such an agreement. The agreement may provide that the city or municipality assume responsibility for the supervision and control of the offenders.

(8) If any entity receives funds under Tennessee Code Annotated, Section 41-2-123(c), the offenders shall be the responsibility of the entity supervising that program and under that entity's supervision and control; otherwise, the sheriff shall be responsible for the supervision and control of all offenders sentenced to litter removal duty.

(9) No sheriff shall be permitted to use an offender sentenced pursuant to this subdivision to perform any task other than litter removal.

SECTION 2.

(a) The provisions of this act shall cease to be effective on January 1, 2009. Unless extended by the general assembly, the law in effect on December 31, 2005 shall govern any person violating the provisions of § 55-10-401 on or after January 1, 2009.

(b) Between January 1, 2006 and January 1, 2009, the department of safety shall conduct a study of the effectiveness of this act. Among other factors considered by the department in determining the success or failure of this act which is designed to deter the offense of driving under the influence of an intoxicant by imposing more visible punishment, the report shall include the number of convictions for first and second offense DUI occurring between the period of January 1, 2006 and December 31, 2009 compared to the number of first and second offense DUI convictions that occurred between January 1, 2002 and December 31, 2005.

(c) The report compiled pursuant to subsection (b) of this section shall be filed with the clerk of the senate and clerk of the house of representatives by January 10, 2010. The respective clerks shall distribute a copy of the report to each member of the Judiciary Committees.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, then all provisions and applications of this act are declared to be invalid and void and the law in effect prior to enactment of this act shall remain in full force and effect.

SECTION 4. This act shall take effect January 1, 2006, the public welfare requiring it.

PASSED: May 28, 2005


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this day of 2005

PHIL BREDESEN, GOVERNOR

Pursuant to Article III, Section 18, of the Constitution of the State of Tennessee, the Governor had House Bill No. 581 in his possession longer than ten (10) days; therefore, the bill becomes law without the Governor's signature.