



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 7, 1994

Honorable Allen Hightower  
Chair  
Committee on Corrections  
Texas House of Representatives  
P.O. Box 2910  
Austin, Texas 78768-2910

Letter Opinion No. 94-086

Re: Application of section 365.012, Health  
and Safety Code, which prohibits the dumping  
of litter or other solid waste (ID# 26966)

Dear Representative Hightower:

You have asked this office for an interpretation of section 365.012 of the Health and Safety Code, which deals with illegal dumping. You are concerned particularly with subsections (b) and (j) of 365.012.

Your first question concerns the "person" who has committed an offense under section 365.012(b). Section 365.012(b) states:

A person commits an offense if the person receives litter or other solid waste for disposal at a place that is not an approved solid waste site, *regardless of* whether the litter or other solid waste *or* the land on which the litter or other solid waste is disposed is owned *or* controlled by the person. [Emphasis added.]

You ask whether such a person must either own or control, or own and control, either the litter or the land, or the litter and the land. The answer to your question is that none of those conditions need obtain. To commit an offense under the act, it is not necessary for a person to own the litter involved, to own the land involved, to control the litter involved, to control the land involved, or to own and control either, neither, or both. Ownership and control of the litter and the land are irrelevant.

The prepositional phrase "regardless of" means "without taking into account." WEBSTER'S NINTH NEW COLLEGIATE DICTIONARY 991 (9th ed. 1990). None of the possibilities in the subordinate clause, therefore, need be taken into account in determining whether an offense has been committed. All that is required for the *actus reus* is the receipt of the litter for disposal at a place which is not approved for such disposal.

Your second question concerns section 365.012(j), which states:

This section does not apply to the disposal of, or temporary storage for future disposal of, litter or other solid waste by a person on land owned by that person, or that person's agent.

You ask, with regard to this section, "How long is temporary?" In our view, such a question cannot be answered categorically as a matter of law. Rather, the answer would depend upon the facts of a particular case. Accordingly, we cannot opine on such a question.

**S U M M A R Y**

All that is required to commit an offense under section 365.012(b) of the Health and Safety Code is the receipt of litter or other solid waste for dumping at an unauthorized place. Ownership and/or control of the litter and/or land are irrelevant.

Yours very truly,

A handwritten signature in black ink, appearing to read "James Tourtelott", written over a horizontal line.

James Tourtelott  
Assistant Attorney General  
Opinion Committee