

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1283

Short Title: Strengthen Littering Laws.

(Public)

Sponsors: Representatives Weiss; Thompson and Luebke.

Referred to: Environment and Natural Resources.

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE LITTERING LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-399 reads as rewritten:

"§ 14-399. Littering.

(a) No person, including but not limited to, any firm, organization, private corporation, or governing body, agents or employees of any municipal corporation shall intentionally or recklessly throw, scatter, spill or place or intentionally or recklessly cause to be blown, scattered, spilled, thrown or placed or otherwise dispose of any litter upon any public property or private property not owned by him within this State or in the waters of this State including, but not limited to, any public highway, public park, lake, river, ocean, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley except:

- (1) When ~~such~~the property is designated by the State or political subdivision thereof for the disposal of garbage and refuse, and ~~such~~the person is authorized to use ~~such~~the property for ~~such~~this purpose; or
- (2) Into a litter receptacle in ~~such~~a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of ~~such~~the private or public property or waters.

(b) When litter is blown, scattered, spilled, thrown or placed from a vehicle or watercraft, the operator thereof shall be presumed to have committed ~~such~~the offense. This presumption, however, does not apply to a vehicle transporting agricultural products or supplies when the litter from that vehicle is a nontoxic, biodegradable agricultural product or supply.

(c) Any person who violates this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a ~~Class 3 misdemeanor~~infraction punishable by a fine of not ~~less than two hundred fifty dollars (\$250.00) nor more than one thousand dollars (\$1,000)~~more than twenty-five dollars (\$25.00) for the first

1 offense. ~~In addition, the court may require the violator to perform community service of~~
2 ~~not less than eight hours nor more than 24 hours. The community service required shall~~
3 ~~be to pick up litter if feasible, and if not feasible, to perform other labor commensurate~~
4 ~~with the offense committed.~~ Any second or subsequent offense violation of this section
5 within three years after the date of a prior offense violation is a Class 3 misdemeanor
6 punishable by a fine of not less than five hundred dollars (\$500.00) nor more than two
7 thousand dollars (\$2,000). In addition, the court may require the violator to perform
8 community service of not less than 16 hours nor more than 50 hours. The community
9 service required shall be to pick up litter if feasible, and if not feasible, to perform other
10 labor commensurate with the offense committed.

11 (d) Any person who violates this section in an amount exceeding 15 pounds but
12 not exceeding 500 pounds and not for commercial purposes is guilty of a Class 3
13 misdemeanor punishable by a fine of not less than five hundred dollars (\$500.00) nor
14 more than two thousand dollars (\$2,000). In addition, the court shall require the violator
15 to perform community service of not less than 24 hours nor more than 100 hours. The
16 community service required shall be to pick up litter if feasible, and if not feasible, to
17 perform other community service commensurate with the offense committed.

18 (e) Any person who violates this section in an amount exceeding 500 pounds or
19 in any quantity for commercial purposes, or who discards litter that is a hazardous waste
20 as defined in G.S. 130A-290 is guilty of a Class I felony. In addition, the court shall
21 order the violator to:

- 22 (1) Remove, or render harmless, the litter that he discarded in violation of
23 this section;
- 24 (2) Repair or restore property damaged by, or pay damages for any
25 damage arising out of, his discarding litter in violation of this section;
26 or
- 27 (3) Perform community public service relating to the removal of litter
28 discarded in violation of this section or to the restoration of an area
29 polluted by litter discarded in violation of this section.

30 (f) A court may enjoin a violation of this section.

31 (f1) If a violation of this section involves the operation of a motor vehicle, upon a
32 finding of guilt, the court shall forward a record of the finding to the Department of
33 Transportation, Division of Motor Vehicles, which shall record a penalty of one point
34 on the violator's drivers license pursuant to the point system established by G.S. 20-16.
35 There shall be no insurance premium surcharge or assessment of points under the
36 classification plan adopted under G.S. 58-36-65 for a finding of guilt under this section.

37 (g) A motor vehicle, vessel, aircraft, container, crane, winch, or machine
38 involved in the disposal of more than 500 pounds of litter in violation of this section is
39 declared contraband and is subject to seizure and summary forfeiture to the State.

40 (h) If a person sustains damages arising out of a violation of this section that is
41 punishable as a felony, a court, in a civil action for ~~such~~ the damages, shall order the
42 person to pay the injured party threefold the actual damages or two hundred dollars
43 (\$200.00), whichever amount is greater. In addition, the court shall order the person to
44 pay the injured party's court costs and attorney's fees.

1 (i) For the purpose of the section, unless the context requires otherwise:

2 (1) "Aircraft" means a motor vehicle or other vehicle that is used or
3 designed to fly, but does not include a parachute or any other device
4 used primarily as safety equipment.

5 (2) Repealed by Session Laws 1999-454, s. 1.

6 (2a) "Commercial purposes" means litter discarded by a business,
7 corporation, association, partnership, sole proprietorship, or any other
8 entity conducting business for economic gain, or by an employee or
9 agent of ~~such~~the entity.

10 (3) "Law enforcement officer" means any ~~officer of the North Carolina~~
11 ~~Highway Patrol, the State Bureau of Investigation, the Division of~~
12 ~~Motor Vehicles of the Department of Transportation, a county sheriff's~~
13 ~~department, a municipal law enforcement department, a law~~
14 ~~enforcement department of any other political subdivision, the~~
15 ~~Department, or the North Carolina Wildlife Resources Commission.~~
16 law enforcement officer sworn and certified pursuant to Chapter 17C
17 or 17E of the General Statutes, except company police officers as
18 defined in G.S. 74E-6(b)(3). In addition, and solely for the purposes of
19 this section, "law enforcement officer" means any employee of a
20 county or municipality designated by the county or municipality as a
21 litter enforcement officer. ~~officer; or wildlife protectors as defined in~~
22 ~~G.S. 113-128(9);~~

23 (4) "Litter" means any garbage, rubbish, trash, refuse, can, bottle, box,
24 container, wrapper, paper, paper product, tire, appliance, mechanical
25 equipment or part, building or construction material, tool, machinery,
26 wood, motor vehicle or motor vehicle part, vessel, aircraft, farm
27 machinery or equipment, sludge from a waste treatment facility, water
28 supply treatment plant, or air pollution control facility, dead animal, or
29 discarded material in any form resulting from domestic, industrial,
30 commercial, mining, agricultural, or governmental operations. "~~Litter~~"
31 While being used for or distributed in accordance with their intended
32 uses, "litter" does not include political pamphlets, handbills, religious
33 tracts, newspapers, and other ~~such~~ similar printed materials the
34 unsolicited distribution of which is protected by the Constitution of the
35 United States or the Constitution of North Carolina.

36 (5) "Vehicle" has the same meaning as in ~~G.S. 20-4.01(49);~~ G.S. 20-
37 4.01(49). ~~and~~

38 (6) "Watercraft" means any boat or vessel used for transportation across
39 the water.

40 (j) It shall be the duty of all law enforcement officers to enforce the provisions of
41 this section.

42 (k) This section does not limit the authority of any State or local agency to
43 enforce other laws, rules or ordinances relating to litter or solid waste management."

44 **SECTION 2.** G.S. 20-116(g) reads as rewritten:

1 "(g) No vehicle shall be driven or moved on any highway unless ~~such~~the vehicle
2 is ~~so~~ constructed or loaded ~~as~~ to prevent any of its load from dropping, sifting, leaking,
3 or otherwise escaping therefrom, except that sand may be dropped for the purpose of
4 securing traction, or water or other substance may be sprinkled on a roadway in
5 cleaning or maintaining such roadway. Vehicles shall not contain any holes, cracks, or
6 openings through which any material may escape.

7 Trucks, trailers or other vehicles when loaded with rock, gravel, stone or any other
8 ~~similar substances which substance that could fall,~~ blow, leak, sift or drop shall not be
9 driven or moved on any highway unless the height of the load against all four walls does
10 not extend above a horizontal line six inches below their tops when loaded ~~at the~~
11 ~~loading point, or if not so loaded, unless and~~ the load shall be securely covered by
12 tarpaulin or some other suitable ~~covering, or unless it is otherwise constructed so as~~
13 covering to prevent any of its load from dropping, sifting, leaking, blowing, or
14 otherwise escaping therefrom.

15 Provided this section shall not be applicable to or in any manner restrict the
16 transportation of seed cotton, ~~of poultry or livestock or silage or other feed grain~~
17 poultry, livestock, silage, or other feed grain used in the feeding of poultry or livestock."

18 **SECTION 3.** G.S. 115C-12 is amended by adding a new subdivision to read:

19 "(29) Duty to Study the Inclusion of Litter Prevention in the State's Standard
20 Course of Study. – The State Board of Education shall study ways to
21 include the topic of litter prevention in the State's Standard Course of
22 Study."

23 **SECTION 4.** Article 2 of Chapter 136 of the General Statutes is amended by
24 adding a new section to read as follows:

25 "**§ 136-28.11. Litter removal coordinated with mowing of highway right-of-way**
26 **and maintenance of highway.**

27 The Department of Transportation shall coordinate the removal of debris, trash, and
28 litter from highways and highway right-of-ways with the mowing of highway right-of-
29 ways and the maintenance of highways. The Department of Transportation shall include
30 as a term of any contract that it enters into for the mowing of a highway right-of-way or
31 the maintenance of a highway that the contracting party must coordinate the removal of
32 debris, trash, and litter from the highway and highway right-of-way with the mowing of
33 the highway right-of-way or the maintenance of the highway."

34 **SECTION 5.** G.S. 153A-136 reads as rewritten:

35 "**§ 153A-136. Regulation of solid wastes.**

36 (a) A county may by ordinance regulate the storage, collection, transportation,
37 use, disposal, and other disposition of solid wastes. Such an ordinance may:

- 38 (1) Regulate the activities of persons, firms, and corporations, both public
39 and private.
- 40 (2) Require each person wishing to commercially collect or dispose of
41 solid wastes to secure a license from the county and prohibit any
42 person from commercially collecting or disposing of solid wastes
43 without a license. A fee may be charged for a license.

1 (3) Grant a franchise to one or more persons for the exclusive right to
2 commercially collect or dispose of solid wastes within all or a defined
3 portion of the county and prohibit any other person from commercially
4 collecting or disposing of solid wastes in that area. The board of
5 commissioners may set the terms of any franchise, except that no
6 franchise may be granted for a period exceeding 30 years, nor may any
7 franchise by its terms impair the authority of the board of
8 commissioners to regulate fees as authorized by this section.

9 (4) Regulate the fees, if any, that may be charged by licensed or
10 franchised persons for collecting or disposing of solid wastes.

11 (5) Require the source separation of materials prior to collection of solid
12 waste for disposal.

13 (6) Require participation in a recycling program by requiring separation of
14 designated materials by the owner or occupant of the property prior to
15 disposal. An owner of recovered materials as defined by G.S.
16 130A-290(a)(24) retains ownership of the recovered materials until the
17 owner conveys, sells, donates, or otherwise transfers the recovered
18 materials to a person, firm, company, corporation, or unit of local
19 government. A county may not require an owner to convey, sell,
20 donate, or otherwise transfer recovered materials to the county or its
21 designee. If an owner places recovered materials in receptacles or
22 delivers recovered materials to specific locations, receptacles, and
23 facilities that are owned or operated by the county or its designee, then
24 ownership of these materials is transferred to the county or its
25 designee.

26 (6a) Regulate the illegal disposal of solid waste, including littering, on
27 public and private property, provide for enforcement by civil penalties
28 as well as other remedies, and provide that such regulations may be
29 enforced by specially appointed environmental officers.

30 (7) Include any other proper matter.

31 (b) Any ordinance adopted pursuant to this section shall be consistent with and
32 supplementary to any rules adopted by the Commission for Health Services or the
33 Department of Environment and Natural Resources.

34 (c) The board of commissioners of a county shall consider alternative sites and
35 socioeconomic and demographic data and shall hold a public hearing prior to selecting
36 or approving a site for a new sanitary landfill that receives residential solid waste that is
37 located within one mile of an existing sanitary landfill within the State. The distance
38 between an existing and a proposed site shall be determined by measurement between
39 the closest points on the outer boundary of each site. The definitions set out in G.S.
40 130A-290 apply to this subsection. As used in this subsection:

41 (1) "Approving a site" refers to prior approval of a site under G.S.
42 130A-294(a)(4).

- 1 (2) "Existing sanitary landfill" means a sanitary landfill that is in operation
2 or that has been in operation within the five-year period immediately
3 prior to the date on which an application for a permit is submitted.
- 4 (3) "New sanitary landfill" means a sanitary landfill that includes areas not
5 within the legal description of an existing sanitary landfill as set out in
6 the permit for the existing sanitary landfill.
- 7 (4) "Socioeconomic and demographic data" means the most recent
8 socioeconomic and demographic data compiled by the United States
9 Bureau of the Census and any additional socioeconomic and
10 demographic data submitted at the public hearing.

11 (d) As used in this section, "solid waste" means nonhazardous solid waste, that is,
12 solid waste as defined in G.S. 130A-290 but not including hazardous waste."

13 **SECTION 6.** G.S. 160A-185 reads as rewritten:

14 **"§ 160A-185. Emission of pollutants or contaminants.**

15 A city may by ordinance regulate, restrict, or prohibit the emission or disposal of
16 substances or effluents that tend to pollute or contaminate land, water, or air, rendering
17 or tending to render it injurious to human health or welfare, to animal or plant life or to
18 property, or interfering or tending to interfere with the enjoyment of life or property. A
19 city may by ordinance regulate the illegal disposal of solid waste, including littering, on
20 public and private property, provide for enforcement by civil penalties as well as other
21 remedies, and provide that such regulations may be enforced by specially appointed
22 environmental enforcement officers. Any such ordinance shall be consistent with and
23 supplementary to State and federal laws and regulations."

24 **SECTION 7.** Article 3 of Chapter 163 of the General Statutes is amended by
25 adding a new section to read:

26 **"§ 163-22.3. Littering notification and pledge.**

27 At the time an individual files with the State Board of Elections a notice of
28 candidacy pursuant to G.S. 163-106, 163-112, 163-291, 163-294.2, or 163-323, is
29 certified to the State Board of Elections by a political party executive committee to fill a
30 nomination vacancy pursuant to G.S. 163-114, is certified to the State Board of
31 Elections by a new political party as that party's nominee pursuant to G.S. 163-98,
32 qualifies with the State Board of Elections as an unaffiliated or write-in candidate
33 pursuant to Article 11 of this Chapter, or formally initiates a candidacy with the State
34 Board of Elections pursuant to any statute or local act, the State Board of Elections shall
35 do both of the following:

- 36 (1) Notify the candidate of the provisions concerning campaign signs in
37 G.S. 136-32 and G.S. 14-156, and the rules adopted by the Department
38 of Transportation pursuant to G.S. 136-18.
- 39 (2) Require that the candidate sign a pledge to comply with those statutes
40 and rules. The State Board of Elections shall prepare a form for the
41 pledge."

42 **SECTION 8.** Article 4 of Chapter 163 of the General Statutes is amended by
43 adding a new section to read:

44 **"§ 163-33.3. Littering notification and pledge.**

1 At the time an individual files with a county board of elections a notice of candidacy
2 pursuant to G.S. 163-106, 163-112, 163-291, or 163-294.2, is certified to a county board
3 of elections by a political party executive committee to fill a nomination vacancy
4 pursuant to G.S. 163-114, qualifies with a county board of elections as an unaffiliated or
5 write-in candidate pursuant to Article 11 of this Chapter, or formally initiates with a
6 county board of elections a candidacy pursuant to any statute or local act, that county
7 board of elections shall do both of the following:

8 (1) Notify the candidate of the provisions concerning campaign signs in
9 G.S. 136-32 and G.S. 14-156, and the rules adopted by the Department
10 of Transportation pursuant to G.S. 136-18.

11 (2) Require that the candidate sign a pledge to comply with those statutes
12 and rules. The State Board of Elections shall prepare a form for the
13 pledge."

14 **SECTION 9.** The existing text of G.S. 147-12 is designated as subsection (a)
15 of that section. G.S. 147-12 is amended by adding a new subsection to read:

16 "(b) The Division of Motor Vehicles of the Department of Transportation, the
17 State Highway Patrol, every sheriff's department, and every police department in the
18 State shall deliver to the Governor by February 1 and August 1 of each year detailed
19 information on the agency's litter enforcement, litter prevention, and litter removal
20 efforts. The Administrative Office of the Courts shall deliver to the Governor by
21 February 1 and August 1 of each year detailed information on the enforcement of the
22 littering laws of the State, including the number of citations issued and arrests
23 conducted pursuant to the littering laws of the State and the conviction rate associated
24 with the specific offenses. The Governor shall gather the information submitted by the
25 respective agencies and deliver a consolidated biannual report on or before March 1 and
26 September 1 of each year to the Environmental Review Commission, the Joint
27 Legislative Transportation Oversight Committee, and the House of Representatives and
28 the Senate Appropriations Subcommittees on Natural and Economic Resources."

29 **SECTION 10.** The first reports required to be delivered by the Division of
30 Motor Vehicles of the Department of Transportation, the State Highway Patrol, every
31 sheriff's department, and every police department in the State to the Governor under
32 G.S. 147-12(b), as enacted by Section 9 of this act, shall be due February 1, 2002. The
33 first report required to be delivered by the Governor to the Environmental Review
34 Commission, the Joint Legislative Transportation Oversight Committee, and the House
35 of Representatives and the Senate Appropriations Subcommittees on Natural and
36 Economic Resources under G.S. 147-12(b), as enacted by Section 9 of this act, shall be
37 due March 1, 2002.

38 **SECTION 11.** Sections 3, 5, 6, 9, 10, and 11 of this act are effective when it
39 becomes law. The remaining sections of the act become effective December 1, 2001,
40 and apply to offenses committed on or after this date.