

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

SESSION LAW 2001-512
SENATE BILL 1014

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~~ the person within this State or in the waters of this State ~~including, but not limited to,~~ including any public highway, public park, lake, river, ocean, beach, campground, ~~forest land,~~ forestland, 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.

(a1) No person, including any firm, organization, private corporation, or governing body, agents, or employees of any municipal corporation shall scatter, spill, or place or cause to be blown, scattered, spilled, or placed or otherwise dispose of any litter upon any public property or private property not owned by the person within this State or in the waters of this State including any public highway, public park, lake, river, ocean, beach, campground, forestland, recreational area, trailer park, highway, road, street, or alley except:

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

(a2) Subsection (a1) of this section does not apply to the accidental blowing, scattering, or spilling of an insignificant amount of municipal solid waste, as defined in G.S. 130A-290(18a), during the automated loading of a vehicle designed and constructed to transport municipal solid waste if the vehicle is operated in a reasonable manner and according to manufacturer specifications.

(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.~~ nontoxic and biodegradable agricultural or garden products or supplies, including mulch, tree bark, wood chips, and raw logs.

(c) Any person who violates subsection (a) of this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a Class 3

misdemeanor punishable by a fine of not less than two hundred fifty dollars (\$250.00) nor more than one thousand dollars (\$1,000) for the first offense. In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent offense-violation of subsection (a) of this section in an amount not exceeding 15 pounds and not for commercial purposes within three years after the date of a prior offense-violation is a Class 3 misdemeanor punishable by a fine of not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(c1) Any person who violates subsection (a1) of this section in an amount not exceeding 15 pounds is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100.00). In addition, the court may require the violator to perform community service of not less than four hours nor more than 12 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent violation of subsection (a1) of this section in an amount not exceeding 15 pounds within three years after the date of a prior violation is an infraction punishable by a fine of not more than two hundred dollars (\$200.00). In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. For purposes of this subsection, the term "litter" shall not include nontoxic and biodegradable agricultural or garden products or supplies, including mulch, tree bark, and wood chips.

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

(d1) Any person who violates subsection (a1) of this section in an amount exceeding 15 pounds but not exceeding 500 pounds is guilty of an infraction punishable by a fine of not more than two hundred dollars (\$200.00). In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(e) Any person who violates subsection (a) of this section in an amount exceeding 500 pounds or in any quantity for commercial purposes, or who discards litter that is a hazardous waste as defined in G.S. 130A-290 is guilty of a Class I felony.

(e1) Any person who violates subsection (a1) of this section in an amount exceeding 500 pounds is guilty of an infraction punishable by a fine of not more than three hundred dollars (\$300.00). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed.

(e2) ~~In addition,~~ If any person violates subsection (a) or (a1) of this section in an amount exceeding 15 pounds or in any quantity for commercial purposes, or discards litter that is a hazardous waste as defined in G.S. 130A-290, the court shall order the violator to:

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

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

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

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

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

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

- (1) "Aircraft" means a motor vehicle or other vehicle that is used or designed to fly, but does not include a parachute or any other device used primarily as safety equipment.
- (2) Repealed by Session Laws 1999-454, s. 1.
- (2a) "Commercial purposes" means litter discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of ~~such-the~~ entity.
- (3) "~~Law enforcement officer~~" means any ~~officer of the North Carolina Highway Patrol, the State Bureau of Investigation, the Division of Motor Vehicles of the Department of Transportation, a county sheriff's department, a municipal law enforcement department, a law enforcement department of any other political subdivision, the Department, or the North Carolina Wildlife Resources Commission.~~ law enforcement officer sworn and certified pursuant to Chapter 17C or 17E of the General Statutes, except company police officers as defined in G.S. 74E-6(b)(3). In addition, and solely for the purposes of this section, "law enforcement officer" means any employee of a county or municipality designated by the county or municipality as a litter enforcement officer; ~~officer; or wildlife protectors as defined in G.S. 113-128(9);~~
- (4) "Litter" means any garbage, rubbish, trash, refuse, can, bottle, box, container, wrapper, paper, paper product, tire, appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or equipment, sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility, dead animal, or discarded material in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. "~~Litter~~"

While being used for or distributed in accordance with their intended uses, "litter" does not include political pamphlets, handbills, religious tracts, newspapers, and other ~~such similar~~ printed materials the unsolicited distribution of which is protected by the Constitution of the United States or the Constitution of North Carolina.

- (5) "Vehicle" has the same meaning as in ~~G.S. 20-4.01(49); G.S. 20-4.01(49), and~~
- (6) "Watercraft" means any boat or vessel used for transportation across the water.

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

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

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

- "(g) (1) No vehicle shall be driven or moved on any highway unless ~~such the~~ vehicle is ~~so constructed or and~~ loaded as to prevent any of its load from ~~falling, blowing, dropping, sifting, leaking, or otherwise escaping therefrom, except that and~~ the vehicle shall not contain any holes, cracks, or openings through which any of its load may escape. However, sand may be dropped for the purpose of securing traction, or water or other substance may be ~~sprinkled~~ sprinkled, dumped, or spread on a roadway in cleaning or maintaining ~~such the~~ roadway. For purposes of this subsection, load does not include water accumulated from precipitation.
- (2) ~~Trucks, trailers or other vehicles when~~ A truck, trailer, or other vehicle licensed for more than 7,500 pounds gross vehicle weight that is loaded with rock, gravel, ~~stone stone,~~ or any other similar substances ~~which substance, other than sand, that~~ could fall, blow, leak, sift-sift, or drop shall not be driven or moved on any highway unless-unless:
 - a. ~~the~~ The height of the load against all four walls does not extend above a horizontal line six inches below their tops when loaded at the loading point, or if not so loaded, unless point; and
 - b. ~~the~~ The load shall be-is securely covered by tarpaulin or some other suitable covering, or unless it is otherwise constructed so as covering to prevent any of its load from falling, dropping, sifting, leaking, blowing, or otherwise escaping therefrom.
- (3) A truck, trailer, or other vehicle:
 - a. Licensed for any gross vehicle weight and loaded with sand; or
 - b. Licensed for 7,500 pounds or less gross vehicle weight and loaded with rock, gravel, stone, or any other similar substance that could fall, blow, leak, sift, or drop;shall not be driven or moved on any highway unless:
 - a. The height of the load against all four walls does not extend above a horizontal line six inches below the top when loaded at the loading point;
 - b. The load is securely covered by tarpaulin or some other suitable covering; or
 - c. The vehicle is constructed to prevent any of its load from falling, dropping, sifting, leaking, blowing, or otherwise escaping therefrom.
- (4) ~~Provided this~~ This section shall not be applicable to or in any manner restrict the transportation of seed cotton, ~~of poultry or livestock~~ poultry or livestock, or silage or other feed grain used in the feeding of poultry or livestock."

SECTION 3. Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

"§ 136-28.12. Litter removal coordinated with mowing of highway rights-of-way.

The Department of Transportation shall, to the extent practicable, schedule the removal of debris, trash, and litter from highways and highway rights-of-way prior to the mowing of highway rights-of-way. The Department of Transportation shall include as a term of any contract that it enters into for the mowing of a highway right-of-way that the contracting party shall, to the extent practicable, coordinate with the scheduled removal of debris, trash, and litter from the highway and highway right-of-way prior to the mowing of the highway right-of-way."

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

"§ 136-32.3. Litter enforcement signs.

The Department of Transportation shall place signs on the Interstate Highway System notifying motorists of the penalties for littering. The signs shall include the amount of the maximum penalty for littering. The Department of Transportation shall determine the locations of and distance between the signs."

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

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

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

- (1) Regulate the activities of persons, firms, and corporations, both public and private.
- (2) Require each person wishing to commercially collect or dispose of solid wastes to secure a license from the county and prohibit any person from commercially collecting or disposing of solid wastes without a license. A fee may be charged for a license.
- (3) Grant a franchise to one or more persons for the exclusive right to commercially collect or dispose of solid wastes within all or a defined portion of the county and prohibit any other person from commercially collecting or disposing of solid wastes in that area. The board of commissioners may set the terms of any franchise, except that no franchise may be granted for a period exceeding 30 years, nor may any franchise by its terms impair the authority of the board of commissioners to regulate fees as authorized by this section.
- (4) Regulate the fees, if any, that may be charged by licensed or franchised persons for collecting or disposing of solid wastes.
- (5) Require the source separation of materials prior to collection of solid waste for disposal.
- (6) Require participation in a recycling program by requiring separation of designated materials by the owner or occupant of the property prior to disposal. An owner of recovered materials as defined by G.S. 130A-290(a)(24) retains ownership of the recovered materials until the owner conveys, sells, donates, or otherwise transfers the recovered materials to a person, firm, company, corporation, or unit of local government. A county may not require an owner to convey, sell, donate, or otherwise transfer recovered materials to the county or its designee. If an owner places recovered materials in receptacles or delivers recovered materials to specific locations, receptacles, and facilities that are owned or operated by the county or its designee, then ownership of these materials is transferred to the county or its designee.

(6a) Regulate the illegal disposal of solid waste, including littering on public and private property, provide for enforcement by civil penalties as well as other remedies, and provide that such regulations may be

enforced by county employees specially appointed as environmental enforcement officers.

(7) Include any other proper matter.

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

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

- (1) "Approving a site" refers to prior approval of a site under G.S. 130A-294(a)(4).
- (2) "Existing sanitary landfill" means a sanitary landfill that is in operation or that has been in operation within the five-year period immediately prior to the date on which an application for a permit is submitted.
- (3) "New sanitary landfill" means a sanitary landfill that includes areas not within the legal description of an existing sanitary landfill as set out in the permit for the existing sanitary landfill.
- (4) "Socioeconomic and demographic data" means the most recent socioeconomic and demographic data compiled by the United States Bureau of the Census and any additional socioeconomic and demographic data submitted at the public hearing.

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

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

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

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

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

"§ 163-22.3. State Board of Elections littering notification.

At the time an individual files with the State Board of Elections a notice of candidacy pursuant to G.S. 163-106, 163-112, 163-291, 163-294.2, or 163-323, is certified to the State Board of Elections by a political party executive committee to fill a nomination vacancy pursuant to G.S. 163-114, is certified to the State Board of Elections by a new political party as that party's nominee pursuant to G.S. 163-98, qualifies with the State Board of Elections as an unaffiliated or write-in candidate pursuant to Article 11 of this Chapter, or formally initiates a candidacy with the State Board of Elections pursuant to any statute or local act, the State Board of Elections shall notify the candidate of the provisions concerning campaign signs in G.S. 136-32 and G.S. 14-156, and the rules adopted by the Department of Transportation pursuant to G.S. 136-18."

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

"§ 163-33.3. County board of elections littering notification.

At the time an individual files with a county board of elections a notice of candidacy pursuant to G.S. 163-106, 163-112, 163-291, or 163-294.2, is certified to a county board of elections by a political party executive committee to fill a nomination vacancy pursuant to G.S. 163-114, qualifies with a county board of elections as an unaffiliated or write-in candidate pursuant to Article 11 of this Chapter, or formally initiates with a county board of elections a candidacy pursuant to any statute or local act, the county board of elections shall notify the candidate of the provisions concerning campaign signs in G.S. 136-32 and G.S. 14-156 and the rules adopted by the Department of Transportation pursuant to G.S. 136-18.

SECTION 9. The text of G.S. 147-12 is designated as subsection (a) of that section, and G.S. 147-12 is further amended by adding a new subsection to read:

"(b) The Department of Transportation, the Department of Correction, the Department of Crime Control and Public Safety, the State Highway Patrol, the Wildlife Resources Commission, the Division of Parks and Recreation in the Department of Environment and Natural Resources, and the Division of Marine Fisheries in the Department of Environment and Natural Resources shall deliver to the Governor by February 1 and August 1 of each year detailed information on the agency's litter enforcement, litter prevention, and litter removal efforts. The Administrative Office of the Courts shall deliver to the Governor by February 1 and August 1 of each year detailed information on the enforcement of the littering laws of the State, including the number of charges and convictions under the littering laws of the State. The Governor shall gather the information submitted by the respective agencies and deliver a consolidated semiannual report on or before March 1 and September 1 of each year to the Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources."

SECTION 10. The first reports required to be delivered by the Department of Transportation, the Department of Correction, the Department of Crime Control and Public Safety, the State Highway Patrol, the Wildlife Resources Commission, the Division of Parks and Recreation in the Department of Environment and Natural Resources, the Division of Marine Fisheries in the Department of Environment and Natural Resources, and the Administrative Office of the Courts to the Governor under G.S. 147-12(b), as enacted by Section 10 of this act, shall be due February 1, 2002. The first report required to be delivered by the Governor to the Environmental Review Commission, the Joint Legislative Transportation Oversight Committee, and the House of Representatives and the Senate Appropriations Subcommittees on Natural and Economic Resources under G.S. 147-12(b), as enacted by Section 10 of this act, shall be due March 1, 2002.

SECTION 11. The State Board of Education shall report to the Joint Legislative Education Oversight Committee and the Environmental Review Commission by December 15 of the years 2003 through 2007, on the recycling efforts of the public schools in the State. These reports shall include information provided by local school administrative units on the number of public schools that have recycling programs and the types of recyclable materials that are collected. If the Joint Legislative Education Oversight Committee or the Environmental Review Commission determines that sufficient progress in establishing recycling programs in the public schools of the State has not been made by January 1, 2008, the Committee or Commission shall recommend legislation to the 2008 Regular Session of the 2007 General Assembly to continue the reporting requirement established by this section.

SECTION 12. G.S. 115C-47 is amended by adding a new subdivision to read:

"(40) To Encourage Recycling in Public Schools. – Local boards of education shall encourage recycling in public schools and may develop and implement recycling programs at public schools."

SECTION 13. G.S. 130A-309.14 is amended by adding a new subsection to read:

"(k) The Department of Transportation shall provide and maintain recycling containers at each rest area located in this State on a highway in the Interstate Highway System or in the State highway system for the collection of each of the following recyclable materials for which recycling is feasible:

- (1) Aluminum.
- (2) Newspaper.
- (3) Recyclable glass.
- (4) Plastic bottles.

For each rest area that has recycling containers, the Department of Transportation shall install signs, or modify existing signs, that are proximately located to the rest area to notify motorists that the rest area has recycling containers."

SECTION 14. G.S. 130A-309.14(a)(1) reads as rewritten:

"(1) Establish a program in cooperation with the Department and the Department of ~~Administration~~, Administration for the collection of all recyclable ~~aluminum and wastepaper~~ materials generated in State offices throughout the State, ~~including, at a minimum, high grade office paper and corrugated paper.~~ State. The program shall provide that recycling containers are readily accessible on each floor where State employees are located in a building occupied by a State agency. Recycling containers required pursuant to this subdivision shall be clearly labeled to identify the types of recyclable materials to be deposited in each container and, to the extent practicable, recycling containers for glass, plastic, and aluminum shall be located near trash receptacles. The program shall provide for the collection of all of the following recyclable materials.

- a. Aluminum.
- b. Newspaper.
- c. Sorted office paper.
- d. Recyclable glass.
- e. Plastic bottles.

As used in this subdivision, the term 'sorted office paper' means paper used in offices that is of a high quality for purposes of recycling and includes copier paper, computer paper, letterhead, ledger, white envelopes, and bond paper."

SECTION 15. This act shall not be construed to obligate the General Assembly to appropriate any funds to implement the provisions of this act. Every agency to which this act applies shall implement the provisions of this act from funds otherwise appropriated or available to the agency.

SECTION 16. Section 1 of this act becomes effective March 1, 2002, and applies to offenses committed on or after that date. Section 2 of this act becomes effective June 1, 2002, and applies to offenses committed on or after that date. Sections 5, 6, 7, 8, 9, 10, 11, 12, 15, and 16 of this act are effective when it becomes law. Sections 3, 4, 13, and 14 of this act become effective January 1, 2002.

In the General Assembly read three times and ratified this the 5th day of December, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 4:34 p.m. this 4th day of January, 2002