

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1007
Committee Substitute Favorable 5/10/91

Short Title: Plastic/Glass Container Deposit.

(Public)

Sponsors:

Referred to:

April 19, 1991

A BILL TO BE ENTITLED

1 AN ACT TO INCREASE THE LITTERING FINES IN THE GENERAL STATUTES
2 AND AUTHORIZATION TO STUDY REQUIRING A DEPOSIT ON GLASS
3 AND PLASTIC BEVERAGE CONTAINERS AND REQUIRING DEALERS AND
4 REDEMPTION CENTERS TO ACCEPT RETURNED GLASS AND PLASTIC
5 CONTAINERS AND REFUND THE DEPOSITS.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 14-399 reads as rewritten:

9 "**§ 14-399. Littering.**

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

18 (1) When such property is designated by the State or political subdivision
19 thereof for the disposal of garbage and refuse, and such person is
20 authorized to use such property for such purpose; or

21 (2) Into a litter receptacle in such a manner that the litter will be prevented
22 from being carried away or deposited by the elements upon any part of
23 such private or public property or waters.

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

6 (c) Any person who violates this section in an amount not exceeding 15 pounds
7 or 27 cubic feet and not for commercial purposes is guilty of a misdemeanor punishable
8 by a fine of not less than ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00) nor more
9 than ~~two hundred dollars (\$200.00)~~ five hundred dollars (\$500.00) for the first offense.
10 Any second or subsequent offense is punishable by a fine of not less than ~~fifty dollars~~
11 ~~(\$50.00)~~ one hundred dollars (\$100.00) nor more than ~~five hundred dollars (\$500.00)~~ one
12 thousand dollars (\$1,000). Notwithstanding the foregoing, any person who violates this
13 section by disposing, in any manner, of litter not exceeding 15 pounds or 27 cubic feet
14 not for commercial purposes upon a beach is guilty of a misdemeanor punishable by a
15 fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00)
16 for a first or any subsequent offense. In addition, the court may require the violator to
17 pick up litter or perform other labor commensurate with the offense committed.

18 (d) Any person who violates this section in an amount exceeding 15 pounds or 27
19 cubic feet, but not exceeding 500 pounds in weight or 100 cubic feet in volume, and not
20 for commercial purposes, is guilty of a misdemeanor punishable by a fine of not less
21 than ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00) nor more than ~~five hundred~~
22 ~~dollars (\$500.00)~~ one thousand dollars (\$1,000). In addition, the court shall require the
23 violator to pick up litter or perform other community service commensurate with the
24 offense committed. Further, if the violation involves the use of a motor vehicle, upon a
25 finding of guilt, regardless of whether adjudication is withheld or of whether imposition
26 of sentence is withheld, deferred, or suspended, the court shall forward a record of the
27 finding to the Department of Transportation, Division of Motor Vehicles, which shall
28 record a penalty of one point on the violator's drivers license pursuant to the point
29 system established by G.S. 20-16. There shall be no insurance premium surcharge or
30 assessment of points under the classification plan adopted pursuant to G.S. 58-30.4 for a
31 finding of guilt under this subsection.

32 (e) Any person who violates this section in an amount exceeding 500 pounds or
33 100 cubic feet or in any quantity for commercial purposes, or dumps litter which is a
34 hazardous waste as defined in G.S. 130A-290 is guilty of a Class J felony. In addition,
35 the court may order the violator to:

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

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

1 (g) A motor vehicle, vessel, aircraft, container, crane, winch, or machine
2 involved in the disposal of more than 500 pounds or more than 100 cubic feet of litter in
3 violation of this section is declared contraband and is subject to seizure and summary
4 forfeiture to the State.

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

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

11 (1) 'Aircraft' means a motor vehicle or other vehicle that is used or
12 designed to fly, but does not include a parachute or any other device
13 used primarily as safety equipment.

14 (2) 'Commercial vehicle' means a vehicle that is owned or used by a
15 business, corporation, association, partnership, or sole proprietorship
16 or any other entity conducting business for economic gain.

17 (3) 'Law enforcement officer' means any officer of the North Carolina
18 Highway Patrol, the Division of Motor Vehicles of the Department of
19 Transportation, a county sheriff's department, a municipal law
20 enforcement department, a law enforcement department of any other
21 political subdivision, the Department, or the North Carolina Wildlife
22 Resources Commission. In addition, and solely for the purposes of
23 this section, "law enforcement officer" means any employee of a
24 county or municipal park or recreation department designated by the
25 department head as a litter enforcement officer; or wildlife protectors
26 as defined in G.S. 113-128(9);

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

39 (5) 'Vehicle' has the same meaning as in G.S. 20-4.01(49); and

40 (6) 'Watercraft' means any boat or vessel used for transportation across the
41 water.

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

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

3 Sec. 2. The Legislative Research Commission is authorized to study the issue
4 of requiring a deposit on glass and plastic beverage containers and requiring dealers and
5 redemption centers to accept returned glass and plastic containers and refund the
6 deposits. The Legislative Research Commission may make an interim report on the
7 progress of its study to the 1992 General Assembly, Regular Session, and may make a
8 final report, including any legislative proposals, to the 1993 General Assembly.

9 Sec. 3. This act is effective upon ratification.