

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 287\*

Short Title: Improve Enforcement of Littering.

(Public)

Sponsors: Senators Reeves; and Miller.

Referred to: Agriculture/Environment/Natural Resources.

March 10, 1999

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE ENFORCEMENT OF THE LAWS TO PREVENT LITTERING.

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 property is designated by the State or political subdivision ~~thereof~~ of the State for the disposal of garbage and refuse, and such person is authorized to use such property for such 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 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 supplies~~  
4 ~~when the litter from that vehicle is a nontoxic, biodegradable agricultural product or supply.~~

5 (c) Any person who violates this section in an amount not exceeding 15 pounds  
6 and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine  
7 of not less than one hundred dollars (\$100.00) nor more than five hundred dollars  
8 (\$500.00) for the first offense. In addition, the court may require the violator to perform  
9 community service of not less than eight hours nor more than 24 hours. The community  
10 service required shall be to pick up litter if feasible, and if not feasible, to perform other  
11 labor commensurate with the offense committed. Any second or subsequent offense  
12 within three years after the date of a prior offense is punishable by a fine of not less than  
13 one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000). In addition,  
14 the court may require the violator to perform community service of not less than 16 hours  
15 nor more than 50 hours. The community service required shall be to pick up litter if  
16 feasible, and if not feasible, to perform other labor commensurate with the offense  
17 committed.

18 (d) Any person who violates this section in an amount exceeding 15 pounds but  
19 not exceeding 500 pounds and not for commercial purposes is guilty of a Class 3  
20 misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00) nor  
21 more than one thousand dollars (\$1,000). In addition, the court shall require the violator  
22 to perform community service of not less than 24 hours nor more than 100 hours. The  
23 community service required shall be to pick up litter if feasible, and if not feasible, to  
24 perform other community service commensurate with the offense committed.

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

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

36 (e1) If any litter disposed of in violation of subsection (d) or (e) of this section is  
37 identified as having last belonged to, been in the possession of, sent to, received by, or  
38 been the property of a person, this identification is prima facie evidence that this person  
39 violated this section.

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

41 (f1) If a second or subsequent violation of this section involves the operation of a  
42 motor vehicle, upon a finding of guilt, the court shall forward a record of the finding to  
43 the Department of Transportation, Division of Motor Vehicles, which shall record a

1 penalty of one point on the violator's drivers license pursuant to the point system  
2 established by G.S. 20-16. There shall be no insurance premium surcharge or assessment  
3 of points under the classification plan adopted pursuant to ~~G.S. 58-30.4~~ G.S. 58-36-65 for  
4 a finding of guilt under this section.

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

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

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

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

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

20 (3) 'Law enforcement officer' means any officer of the North Carolina  
21 Highway Patrol, the State Bureau of Investigation, the Division of  
22 Motor Vehicles of the Department of Transportation, a county sheriff's  
23 department, a municipal law enforcement department, a law  
24 enforcement department of any other political subdivision, the  
25 ~~Department, Department of Environment and Natural Resources,~~ or the  
26 North Carolina Wildlife Resources Commission. In addition, and solely  
27 for the purposes of this section, 'law enforcement officer' means any  
28 employee of a county or municipality designated by the county or  
29 municipality as a litter enforcement officer; or wildlife protectors as  
30 defined in G.S. 113-128(9);

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

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

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

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

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

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

8 "(g) No vehicle shall be driven or moved on any highway unless ~~such the~~ vehicle is  
9 ~~so constructed or loaded as~~ constructed or loaded, or the load is covered, to prevent any of  
10 its load from dropping, sifting, leaking, blowing, or otherwise escaping ~~therefrom~~, from  
11 the vehicle. ~~except that sand~~ Sand may be dropped for the purpose of securing traction, or  
12 water or other substance may be sprinkled on a roadway in cleaning or maintaining ~~such~~  
13 the roadway.

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

22 If a law enforcement officer stops a vehicle and finds that the load is being  
23 transported in violation of this subsection, the officer may prohibit the operator of the  
24 vehicle from continuing until the load has been made to comply with this subsection.

25 ~~Provided this section shall not be applicable~~ This section does not apply to or in any  
26 ~~manner restrict~~ does not restrict in any manner the transportation of seed cotton, of live  
27 poultry or livestock or silage or other feed grain used in the feeding of poultry or  
28 livestock. livestock.

29 Upon conviction for a violation of this subsection, the court shall forward a record of  
30 the finding to the Department of Transportation, Division of Motor Vehicles, which shall  
31 record a penalty of one point on the violator's drivers license pursuant to the point system  
32 established by G.S. 20-16. There shall be no insurance premium surcharge or assessment  
33 of points under the classification plan adopted pursuant to G.S. 58-36-65 for a finding of  
34 guilt under this subsection."

35 Section 3. This act becomes effective December 1, 1999, and applies to  
36 offenses committed on or after that date.