

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 1014
Corrected Copy 4/9/01
Agriculture/Environment/Natural Resources Committee Substitute Adopted
4/16/01

Short Title: Strengthen Littering Laws.

(Public)

Sponsors:

Referred to:

April 5, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO STRENGTHEN THE LITTERING LAWS.

3 The General Assembly of North Carolina enacts:

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

5 "§ 14-399. Littering.

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

14 (1) When ~~such~~the property is designated by the State or political
15 subdivision thereof for the disposal of garbage and refuse, and ~~such~~the
16 person is authorized to use ~~such~~the property for ~~such~~this purpose; or

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

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

1 (1) When the property is designated by the State or political subdivision
2 thereof for the disposal of garbage and refuse, and the person is
3 authorized to use the property for this purpose; or

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

7 (b) When litter is blown, scattered, spilled, thrown or placed from a vehicle or
8 watercraft, the operator thereof shall be presumed to have committed ~~such the~~ offense.
9 This presumption, however, does not apply to a vehicle transporting ~~agricultural~~
10 ~~products or supplies when the litter from that vehicle is a nontoxic, biodegradable~~
11 ~~agricultural product or supply.~~ nontoxic and biodegradable agricultural or garden
12 products or supplies, including mulch, tree bark, wood chips, and raw logs.

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

27 (c1) Any person who violates subsection (a1) of this section in an amount not
28 exceeding 15 pounds and not for commercial purposes is guilty of an infraction
29 punishable by a fine of not more than fifty dollars (\$50.00). In addition, the court may
30 require the violator to perform community service of not less than four hours nor more
31 than 12 hours. The community service required shall be to pick up litter if feasible, and
32 if not feasible, to perform other labor commensurate with the offense committed. For
33 purposes of this subsection, the term "litter" shall not include nontoxic and
34 biodegradable, agricultural or garden products or supplies, including mulch, tree bark,
35 and wood chips.

36 (d) Any person who violates subsection (a) or (a1) of this section in an amount
37 exceeding 15 pounds but not exceeding 500 pounds and not for commercial purposes is
38 guilty of a Class 3 misdemeanor punishable by a fine of not less than five hundred
39 dollars (\$500.00) nor more than two thousand dollars (\$2,000). In addition, the court
40 shall require the violator to perform community service of not less than 24 hours nor
41 more than 100 hours. The community service required shall be to pick up litter if

1 feasible, and if not feasible, to perform other community service commensurate with the
2 offense committed.

3 (e) Any person who violates subsection (a) or (a1) of this section in an amount
4 exceeding 500 pounds or in any quantity for commercial purposes, or who discards litter
5 that is a hazardous waste as defined in G.S. 130A-290 is guilty of a Class I felony. In
6 addition, the court shall order the violator to:

7 (1) Remove, or render harmless, the litter that he discarded in violation of
8 this section;

9 (2) Repair or restore property damaged by, or pay damages for any
10 damage arising out of, his discarding litter in violation of this section;
11 or

12 (3) Perform community public service relating to the removal of litter
13 discarded in violation of this section or to the restoration of an area
14 polluted by litter discarded in violation of this section.

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

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

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

27 (h) If a person sustains damages arising out of a violation of subsection (a) or
28 (a1) of this section that is punishable as a felony, a court, in a civil action for ~~such the~~
29 damages, shall order the person to pay the injured party threefold the actual damages or
30 two hundred dollars (\$200.00), whichever amount is greater. In addition, the court shall
31 order the person to pay the injured party's court costs and attorney's fees.

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

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

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

37 (2a) "Commercial purposes" means litter discarded by a business,
38 corporation, association, partnership, sole proprietorship, or any other
39 entity conducting business for economic gain, or by an employee or
40 agent of ~~such the~~ entity.

41 (3) "Law enforcement officer" means any ~~officer of the North Carolina~~
42 ~~Highway Patrol, the State Bureau of Investigation, the Division of~~

1 ~~Motor Vehicles of the Department of Transportation, a county sheriff's~~
2 ~~department, a municipal law enforcement department, a law~~
3 ~~enforcement department of any other political subdivision, the~~
4 ~~Department, or the North Carolina Wildlife Resources Commission.~~
5 law enforcement officer sworn and certified pursuant to Chapter 17C
6 or 17E of the General Statutes, except company police officers as
7 defined in G.S. 74E-6(b)(3). In addition, and solely for the purposes of
8 this section, "law enforcement officer" means any employee of a
9 county or municipality designated by the county or municipality as a
10 litter enforcement officer. ~~officer; or wildlife protectors as defined in~~
11 ~~G.S. 113-128(9);~~

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

25 (5) "Vehicle" has the same meaning as in ~~G.S. 20-4.01(49); G.S. 20-~~
26 ~~4.01(49).~~ and

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

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

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

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

34 "(g) No vehicle shall be driven or moved on any highway unless ~~such~~ the vehicle
35 is ~~so~~ constructed or loaded ~~as~~ to prevent any of its load from dropping, sifting, leaking,
36 or otherwise escaping therefrom, and the vehicle shall not contain any holes, cracks, or
37 openings through which any of its load may escape. ~~except that~~ However, sand may be
38 dropped for the purpose of securing traction, or water or other substance may be
39 sprinkled on a roadway in cleaning or maintaining such roadway.

40 Trucks, trailers or other vehicles when loaded with rock, gravel, stone or any other
41 ~~similar substances which~~ substance that could fall, blow, leak, sift or drop shall not be
42 driven or moved on any highway unless the height of the load against all four walls does

1 not extend above a horizontal line six inches below their tops when loaded at the
2 ~~loading point, or if not so loaded, unless and~~ the load shall be securely covered by
3 tarpaulin or some other suitable covering, ~~or unless it is otherwise constructed so as~~
4 covering to prevent any of its load from dropping, sifting, leaking, blowing, or
5 otherwise escaping therefrom.

6 Provided this section shall not be applicable to ~~or in any manner restrict the~~
7 ~~transportation of seed cotton, of poultry or livestock or silage or other feed grain used in~~
8 ~~the feeding of poultry or livestock.~~ nontoxic and biodegradable, agricultural or garden
9 products or supplies, including mulch, tree bark, wood chips, and raw logs."

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

11 "(29) Duty to Study the Inclusion of Litter Prevention in the State's Standard
12 Course of Study. – The State Board of Education shall study ways to
13 include the topic of litter prevention in the State's Standard Course of
14 Study."

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

17 **"§ 136-28.11. Litter removal coordinated with mowing of highway right-of-way**
18 **and maintenance of highway.**

19 The Department of Transportation shall coordinate the removal of debris, trash, and
20 litter from highways and highway right-of-ways with the mowing of highway right-of-
21 ways and the maintenance of highways. The Department of Transportation shall include
22 as a term of any contract that it enters into for the mowing of a highway right-of-way or
23 the maintenance of a highway that the contracting party must coordinate the removal of
24 debris, trash, and litter from the highway and highway right-of-way with the mowing of
25 the highway right-of-way or the maintenance of the highway."

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

27 **"§ 153A-136. Regulation of solid wastes.**

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

- 30 (1) Regulate the activities of persons, firms, and corporations, both public
31 and private.
- 32 (2) Require each person wishing to commercially collect or dispose of
33 solid wastes to secure a license from the county and prohibit any
34 person from commercially collecting or disposing of solid wastes
35 without a license. A fee may be charged for a license.
- 36 (3) Grant a franchise to one or more persons for the exclusive right to
37 commercially collect or dispose of solid wastes within all or a defined
38 portion of the county and prohibit any other person from commercially
39 collecting or disposing of solid wastes in that area. The board of
40 commissioners may set the terms of any franchise, except that no
41 franchise may be granted for a period exceeding 30 years, nor may any

1 franchise by its terms impair the authority of the board of
2 commissioners to regulate fees as authorized by this section.

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

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

7 (6) Require participation in a recycling program by requiring separation of
8 designated materials by the owner or occupant of the property prior to
9 disposal. An owner of recovered materials as defined by G.S.
10 130A-290(a)(24) retains ownership of the recovered materials until the
11 owner conveys, sells, donates, or otherwise transfers the recovered
12 materials to a person, firm, company, corporation, or unit of local
13 government. A county may not require an owner to convey, sell,
14 donate, or otherwise transfer recovered materials to the county or its
15 designee. If an owner places recovered materials in receptacles or
16 delivers recovered materials to specific locations, receptacles, and
17 facilities that are owned or operated by the county or its designee, then
18 ownership of these materials is transferred to the county or its
19 designee.

20 (6a) Regulate the illegal disposal of solid waste, including littering, on
21 public and private property, provide for enforcement by civil penalties
22 as well as other remedies, and provide that such regulations may be
23 enforced by specially appointed environmental officers.

24 (7) Include any other proper matter.

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

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

35 (1) "Approving a site" refers to prior approval of a site under G.S.
36 130A-294(a)(4).

37 (2) "Existing sanitary landfill" means a sanitary landfill that is in operation
38 or that has been in operation within the five-year period immediately
39 prior to the date on which an application for a permit is submitted.

40 (3) "New sanitary landfill" means a sanitary landfill that includes areas not
41 within the legal description of an existing sanitary landfill as set out in
42 the permit for the existing sanitary landfill.

1 (4) "Socioeconomic and demographic data" means the most recent
2 socioeconomic and demographic data compiled by the United States
3 Bureau of the Census and any additional socioeconomic and
4 demographic data submitted at the public hearing.

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

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

8 "**§ 160A-185. Emission of pollutants or contaminants.**

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

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

20 "**§ 163-22.3. Littering notification and pledge.**

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

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

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

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

38 "**§ 163-33.3. Littering notification and pledge.**

39 At the time an individual files with a county board of elections a notice of candidacy
40 pursuant to G.S. 163-106, 163-112, 163-291, or 163-294.2, is certified to a county board
41 of elections by a political party executive committee to fill a nomination vacancy
42 pursuant to G.S. 163-114, qualifies with a county board of elections as an unaffiliated or

1 write-in candidate pursuant to Article 11 of this Chapter, or formally initiates with a
2 county board of elections a candidacy pursuant to any statute or local act, that county
3 board of elections shall do both of the following:

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

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

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

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

38 **SECTION 11.** Article 11 of Chapter 143B of the General Statutes is
39 amended by adding a new section to read:

40 **"§ 143B-476.1. Community Service Work Program Report.**

41 The Department of Crime Control and Public Safety shall report to the
42 Environmental Review Commission on or before September 1 of each year on the litter

1 removal efforts of the Community Service Work Program. This report shall include the
2 amount of litter removed and the number of community service hours committed to the
3 removal of litter."

4 **SECTION 12.** The General Assembly of North Carolina acknowledges the
5 establishment of North Carolina First in the Division of Travel and Tourism in the
6 Department of Commerce and shall encourage and facilitate its litter prevention efforts.

7 **SECTION 13.** Sections 3, 5, 6, 9, 10, 11, 12, and 13 of this act are effective
8 when it becomes law. The remaining sections of the act become effective December 1,
9 2001, and apply to offenses committed on or after this date.