

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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SENATE BILL 979

Short Title: Use Litter Penalties/Cleanup & Enforcement.

(Public)

Sponsors: Senators Allran; Carpenter, Forrester, Foxx, and Garwood.

Referred to: Judiciary I.

April 5, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO CREATE THE INFRACTION OF LITTERING AND TO PROVIDE
3 FOR A REFERENDUM TO AMEND THE NORTH CAROLINA
4 CONSTITUTION TO PROVIDE THAT PENALTIES COLLECTED FOR LITTER
5 INFRACTIONS SHALL BE USED FOR THE ENFORCEMENT OF LITTER
6 LAWS AND TO CLEAN UP LITTER.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Article 52 of Chapter 14 of the General Statutes is amended by
9 adding a new section to read:

10 "**§ 14-399.3. Littering: infraction.**

11 (a) The following definitions apply in this section:

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

15 (2) Commercial purposes. – Litter is discarded for commercial purposes if
16 it is discarded by a business, a corporation, an association, a
17 partnership, a sole proprietorship, or any other entity conducting
18 business for economic gain, or by an employee or agent of the entity.

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

1 (4) Litter. – Any garbage, rubbish, trash, refuse, can, bottle, box,
2 container, wrapper, paper, paper product, tire, appliance, mechanical
3 equipment or part, building or construction material, tool, machinery,
4 wood, motor vehicle or motor vehicle part, vessel, aircraft, farm
5 machinery or equipment, sludge from a waste treatment facility, water
6 supply treatment plant, or air pollution control facility, dead animal, or
7 discarded material in any form resulting from domestic, industrial,
8 commercial, mining, agricultural, or governmental operations. "Litter"
9 does not include political pamphlets, handbills, religious tracts,
10 newspapers, and other such printed materials the unsolicited
11 distribution of which is protected by the United States Constitution or
12 the North Carolina Constitution.

13 (5) Vehicle. – Has the same meaning as in G.S. 20-4.01(49).

14 (6) Watercraft. – Any boat or vessel used for transportation across the
15 water.

16 (b) No person shall intentionally or recklessly throw, scatter, spill, or place, or
17 intentionally or recklessly cause to be blown, scattered, spilled, thrown, or placed, or
18 otherwise dispose of any litter upon any public property or private property not owned
19 by the person within this State or in the waters of this State including any public
20 highway, public park, lake, river, ocean, beach, campground, forestland, recreational
21 area, trailer park, highway, road, street, or alley except:

22 (1) When the property is designated by the State or a political subdivision
23 for the disposal of garbage and refuse, and the person is authorized to
24 use the property for this purpose; or

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

28 (c) If litter is blown, scattered, spilled, thrown, or placed from a vehicle or
29 watercraft, that is prima facie evidence of a litter violation. The citation for a litter
30 violation shall be issued as follows:

31 (1) The law enforcement officer shall make a reasonable effort to
32 determine who committed the violation and shall issue the citation for
33 littering to that person.

34 (2) If the law enforcement officer is unable to determine who committed
35 the violation as provided by subdivision (1) of this subsection, and in
36 all other circumstances, it shall be presumed that the operator of the
37 vehicle or watercraft is responsible for the violation, and the citation
38 shall be issued to the operator.

39 (d) Any person who violates this section in an amount not exceeding 15 pounds
40 and not for commercial purposes has committed an infraction and shall pay a penalty of
41 fifty dollars (\$50.00). Responsibility for an infraction under this subsection has no
42 consequence other than payment of a penalty. In addition, the court may require the
43 violator to perform community service of not less than four hours nor more than 12

1 hours. The community service required shall be to pick up litter if feasible and, if not
2 feasible, to perform other labor commensurate with the offense committed.

3 (e) Any person who violates this section in an amount exceeding 15 pounds but
4 not exceeding 500 pounds and not for commercial purposes has committed an infraction
5 and shall pay a penalty of one hundred dollars (\$100.00). In addition, the court may
6 require the violator to perform community service of not less than 12 hours nor more
7 than 24 hours. The community service required shall be to pick up litter if feasible and,
8 if not feasible, to perform other community service commensurate with the offense
9 committed.

10 (f) A person found responsible for a violation of this subsection shall not be
11 assessed court costs. No drivers license points or insurance surcharge shall be assessed
12 on account of violation of this subsection.

13 (g) It is the duty of all law enforcement officers to enforce the provisions of this
14 section.

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

17 **SECTION 2.** Section 7 of Article IX of the North Carolina Constitution
18 reads as rewritten:

19 **"Sec. 7. County school fund.**

20 All—Except as provided in Section 6 of Article XIV of the North Carolina
21 Constitution, all moneys, stocks, bonds, and other property belonging to a county school
22 fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in
23 the several counties for any breach of the penal laws of the State, shall belong to and
24 remain in the several counties, and shall be faithfully appropriated and used exclusively
25 for maintaining free public schools."

26 **SECTION 3.** Article XIV of the North Carolina Constitution is amended by
27 adding a new section to read:

28 **"Sec. 6. Litter penalties.**

29 The clear proceeds of all penalties collected for litter infractions committed on or
30 after July 1, 2003, shall belong to and remain in the several counties to be used as
31 follows: fifty percent (50%) of the clear proceeds shall be used exclusively by law
32 enforcement to enforce the litter laws, and fifty percent (50%) of the clear proceeds
33 shall be used exclusively to clean up litter."

34 **SECTION 4.** The amendments set out in Section 2 and Section 3 of this act
35 shall be submitted to the qualified voters of the State at the general election in
36 November 2002, which election shall be conducted under the laws then governing
37 elections in the State. Ballots, voting systems, or both may be used in accordance with
38 Chapter 163 of the General Statutes. The question to be used in the voting systems and
39 ballots shall be:

40 "[] FOR [] AGAINST

41 Constitutional amendment providing that the clear proceeds of all penalties
42 for litter infractions committed on or after July 1, 2003, shall belong to the several
43 counties to be used as follows: fifty percent by law enforcement to enforce the litter
44 laws and fifty percent for cleaning up litter."

1 **SECTION 5.** If a majority of the votes cast on the question are in favor of
2 the amendments set out in Section 2 and Section 3 of this act, the State Board of
3 Elections shall certify the amendments to the Secretary of State. The constitutional
4 amendments in Section 2 and Section 3 of this act shall become effective July 1, 2003.
5 The Secretary of State shall enroll the amendments so certified among the permanent
6 records of that office.

7 **SECTION 6.** Section 1 of this act becomes effective only if the
8 constitutional amendments proposed by Section 2 and Section 3 of this act are approved
9 as provided by Section 4 and Section 5 of this act; and if so approved, Section 1 of this
10 act becomes effective December 1, 2002.

11 **SECTION 7.** This act is effective when it becomes law.