

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 352*

Short Title: Improve Enforcement of Littering.

(Public)

Sponsors: Representatives Mosley; Goodwin, Hackney, Haire, Hill, Horn, Hurley, and Warner.

Referred to: Environment and Natural Resources.

March 8, 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

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

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

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

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

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

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

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

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

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

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

1 (f1) If a second or subsequent violation of this section involves the operation of a
2 motor vehicle, upon a finding of guilt, the court shall forward a record of the finding to
3 the Department of Transportation, Division of Motor Vehicles, which shall record a
4 penalty of one point on the violator's drivers license pursuant to the point system
5 established by G.S. 20-16. There shall be no insurance premium surcharge or assessment
6 of points under the classification plan adopted pursuant to ~~G.S. 58-30.4~~ G.S. 58-36-65 for
7 a finding of guilt under this section.

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

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

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

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

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

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

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

1 unsolicited distribution of which is protected by the Constitution of the
2 United States or the Constitution of North Carolina.

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

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

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

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

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

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

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

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

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

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

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