

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**SENATE BILL 5**

Short Title: Make N.C. Clean Again.

(Public)

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Sponsors: Senators Allran; Berger, Bingham, Carpenter, Clodfelter, Forrester, Foxx, Garwood, Harris, Hartsell, Hoyle, Lucas, Metcalf, Moore, Odom, Plyler, Rand, Rucho, Shaw of Guilford, Warren, Webster, and Weinstein.

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Referred to: Judiciary II.

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January 25, 2001

A BILL TO BE ENTITLED

AN ACT TO MAKE NORTH CAROLINA CLEAN AGAIN.

The General Assembly of North Carolina enacts:

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

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

(a) The following definitions apply in this section:

- (1) Aircraft. – A motor vehicle or other vehicle that is used or designed to fly, but does not include a parachute or any other device used primarily as safety equipment.
- (2) Commercial purposes. – Litter discarded by a business, corporation, association, partnership, sole proprietorship, or any other entity conducting business for economic gain, or by an employee or agent of the entity.
- (3) Law enforcement officer. – Any officer of the North Carolina Highway Patrol, the State Bureau of Investigation, the Division of Motor Vehicles of the Department of Transportation, a county sheriff's department, a municipal law enforcement department, a law enforcement department of any other political subdivision, or the North Carolina Wildlife Resources Commission. In addition, and solely for the purposes of this section, "law enforcement officer" means any employee of a county or municipality designated by the county or municipality as a litter enforcement officer; or wildlife protectors as defined in G.S. 113-128(9).
- (4) Litter. – Any garbage, rubbish, trash, refuse, can, bottle, box, container, wrapper, paper, paper product, tire, appliance, mechanical

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

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

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

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

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

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

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

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

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

37 (d) Any person who violates this section in an amount not exceeding 15 pounds  
38 and not for commercial purposes shall have committed an infraction and shall pay a  
39 penalty of twenty-five dollars (\$25.00). Responsibility for an infraction under this  
40 subsection has no consequence other than payment of a penalty. In addition, the court  
41 may require the violator to perform community service of not less than four hours or  
42 more than 12 hours. The community service required shall be to pick up litter if  
43 feasible, and if not feasible, to perform other labor commensurate with the offense  
44 committed.

1       (e) Any person who violates this section in an amount exceeding 15 pounds but  
2 not exceeding 500 pounds and not for commercial purposes shall have committed an  
3 infraction and shall pay a penalty of fifty dollars (\$50.00). In addition, the court may  
4 require the violator to perform community service of not less than 12 hours nor more  
5 than 24 hours. The community service required shall be to pick up litter if feasible, and  
6 if not feasible, to perform other community service commensurate with the offense  
7 committed.

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

11       (g) It shall be the duty of all law enforcement officers to enforce the provisions of  
12 this section.

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

15       **SECTION 2.** The Department of Transportation shall include as a term of  
16 any contract that it enters into for the mowing or maintenance of a highway or a  
17 highway right-of-way that the contracting party remove or provide for the removal of  
18 any debris or trash before mowing or otherwise maintaining the highway or highway  
19 right-of-way.

20       **SECTION 3.** This act becomes effective December 1, 2001.