

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1151

Short Title: More Arrests/Service for Litterers.

(Public)

Sponsors: Representatives Justus; Alexander, Arnold, Balmer, Beall, Berry, Bowie, Bowman, J. Brown, Church, Colton, Crawford, Creech, Culp, DeVane, Dickson, Edwards, Esposito, Flaherty, Gamble, Gardner, Gottovi, Grady, Hensley, Hill, Holmes, Howard, H. Hunter, R. Hunter, Ives, James, Joye, Kuczmariski, Lee, Lemmond, Lutz, Mavretic, McCombs, McLawhorn, Mercer, Nichols, C. Preston, J. Preston, Ramsey, Robinson, Russell, Stamey, G. Thompson, R. Thompson, Warner, Weatherly, C. Wilson, and Wood.

Referred to: Judiciary I.

April 19, 1993

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE THAT IT IS A MATTER OF STATE POLICY TO
3 STRICTLY ENFORCE THE LITTERING LAW AND TO REQUIRE PERSONS
4 WHO ARE CONVICTED OF LITTERING TO PICK UP LITTER UNDER A
5 COMMUNITY SERVICE PROGRAM.

6 The General Assembly of North Carolina enacts:

7 Section 1. Chapter 14 of the General Statutes is amended by adding a new
8 section to read:

9 "**§ 14-398.1. State policy regarding littering.**

10 It is the policy of this State that its littering law be strictly enforced, that law
11 enforcement officers give the arrest of litterers a high priority, and that district attorneys
12 aggressively prosecute cases involving littering."

13 Sec. 2. G.S. 14-399 reads as rewritten:

14 "**§ 14-399. Littering.**

15 (a) No person, including but not limited to, any firm, organization, private
16 corporation, or governing body, agents or employees of any municipal corporation shall
17 intentionally or recklessly throw, scatter, spill or place or intentionally or recklessly
18 cause to be blown, scattered, spilled, thrown or placed or otherwise dispose of any litter

1 upon any public property or private property not owned by him within this State or in
2 the waters of this State including, but not limited to, any public highway, public park,
3 lake, river, ocean, beach, campground, forest land, recreational area, trailer park,
4 highway, road, street or alley except:

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

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

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

16 (c) Any person who violates this section in an amount not exceeding 15 pounds
17 and not for commercial purposes is guilty of a misdemeanor punishable by a fine of not
18 less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00)
19 for the first offense. Any second or subsequent offense is punishable by a fine of not
20 less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000).
21 In addition, the court ~~may shall~~ require the violator to ~~pick up litter or perform other labor~~
22 ~~commensurate with the offense committed.~~ be responsible for the removal of all litter for a
23 two-mile section of a primary or secondary road polluted by litter, under a community
24 service program. This community service is subject to the provisions of subsection (h1)
25 of this section.

26 (d) Any person who violates this section in an amount exceeding 15 pounds but
27 not exceeding 500 pounds and not for commercial purposes is guilty of a misdemeanor
28 punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one
29 thousand dollars (\$1,000). In addition, the court shall require the violator to ~~pick up litter~~
30 ~~or perform other community service commensurate with the offense committed.~~ be
31 responsible for the removal of all litter for a two-mile section of a primary or secondary
32 road polluted by litter, under a community service program. This community service is
33 subject to the provisions of subsection (h1) of this section.

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

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

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

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

4 The court shall order the violator to be responsible for the removal of all litter for a two-
5 mile section of a primary or secondary road polluted by litter, under a community
6 service program. This community service is subject to the provisions of subsection (h1)
7 of this section.

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

9 (f1) If a violation of this section involves the operation of a motor vehicle, upon a
10 finding of guilt, the court shall forward a record of the finding to the Department of
11 Transportation, Division of Motor Vehicles, which shall record a penalty of one point
12 on the violator's drivers license pursuant to the point system established by G.S. 20-16.
13 There shall be no insurance premium surcharge or assessment of points under the
14 classification plan adopted pursuant to G.S. 58-30.4 for a finding of guilt under this
15 section.

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

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

24 (h1) While picking up litter pursuant to subsections (c), (d), or (e) of this section,
25 violators shall wear safety vests supplied by the community service program. A safety
26 vest shall conspicuously identify its wearer as a convicted litterer. Violators who are
27 unable to pick up litter due to a disability shall be required by the court to perform some
28 other service under the community service program.

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

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

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

36 (3) 'Law enforcement officer' means any officer of the North Carolina
37 Highway Patrol, the State Bureau of Investigation, the Division of
38 Motor Vehicles of the Department of Transportation, a county sheriff's
39 department, a municipal law enforcement department, a law
40 enforcement department of any other political subdivision, the
41 Department, or the North Carolina Wildlife Resources Commission.
42 In addition, and solely for the purposes of this section, 'law
43 enforcement officer' means any employee of a county or municipality

- 1 designated by the county or municipality as a litter enforcement
2 officer; or wildlife protectors as defined in G.S. 113-128(9);
- 3 (4) 'Litter' means any garbage, rubbish, trash, refuse, can, bottle, box,
4 container, wrapper, paper, paper product, tire, appliance, mechanical
5 equipment or part, building or construction material, tool, machinery,
6 wood, motor vehicle or motor vehicle part, vessel, aircraft, farm
7 machinery or equipment, sludge from a waste treatment facility, water
8 supply treatment plant, or air pollution control facility, dead animal, or
9 discarded material in any form resulting from domestic, industrial,
10 commercial, mining, agricultural, or governmental operations. 'Litter'
11 does not include political pamphlets, handbills, religious tracts,
12 newspapers, and other such printed materials the unsolicited
13 distribution of which is protected by the Constitution of the United
14 States or the Constitution of North Carolina.
- 15 (5) 'Vehicle' has the same meaning as in G.S. 20-4.01(49); and
- 16 (6) 'Watercraft' means any boat or vessel used for transportation across the
17 water.
- 18 (j) It shall be the duty of all law enforcement officers to enforce the provisions of
19 this section.
- 20 (k) This section does not limit the authority of any State or local agency to
21 enforce other laws, rules or ordinances relating to litter or solid waste management."
- 22 Sec. 3. This act is effective upon ratification and applies to any litter offenses
23 committed on or after that date.