

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 413*

Committee Substitute Favorable 4/19/91

Senate Environment & Natural Resources Committee Substitute Adopted 6/28/91

Short Title: Increase Fines for Littering.

(Public)

Sponsors:

Referred to:

April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE FINES FOR LITTERING AND TO CLARIFY THE STATUTES RELATING TO 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 for the disposal of garbage and refuse, and such person is authorized to use such property for such purpose; or

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

(b) When litter is blown, scattered, spilled, thrown or placed from a vehicle or watercraft, the operator thereof shall be presumed to have committed such offense. This

1 presumption, however, does not apply to a vehicle transporting agricultural products or
2 supplies when the litter from that vehicle is a nontoxic, biodegradable agricultural
3 product or supply.

4 (c) Any person who violates this section in an amount not exceeding 15 pounds
5 ~~or 27 cubic feet~~ and not for commercial purposes is guilty of a misdemeanor punishable
6 by a fine of not less than ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00) nor more
7 than ~~two hundred dollars (\$200.00)~~ five hundred dollars (\$500.00) for the first offense.
8 Any second or subsequent offense is punishable by a fine of not less than ~~fifty dollars~~
9 ~~(\$50.00)~~ one hundred dollars (\$100.00) nor more than ~~five hundred dollars (\$500.00)~~ one
10 thousand dollars (\$1,000). ~~Notwithstanding the foregoing, any person who violates this~~
11 ~~section by disposing, in any manner, of litter not exceeding 15 pounds or 27 cubic feet not for~~
12 ~~commercial purposes upon a beach is guilty of a misdemeanor punishable by a fine of not less~~
13 ~~than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for a first or any~~
14 ~~subsequent offense.~~ In addition, the court may require the violator to pick up litter or
15 perform other labor commensurate with the offense committed.

16 (d) Any person who violates this section in an amount exceeding 15 pounds ~~or 27~~
17 ~~cubic feet~~, but not exceeding 500 pounds in weight ~~or 100 cubic feet in volume~~, and not for
18 commercial purposes, ~~purposes~~ is guilty of a misdemeanor punishable by a fine of not
19 less than ~~fifty dollars (\$50.00)~~ one hundred dollars (\$100.00) nor more than ~~five hundred~~
20 ~~dollars (\$500.00)~~ one thousand dollars (\$1,000). In addition, the court shall require the
21 violator to pick up litter or perform other community service commensurate with the
22 offense committed. ~~Further, if the violation involves the use of a motor vehicle, upon a~~
23 ~~finding of guilt, regardless of whether adjudication is withheld or of whether imposition of~~
24 ~~sentence is withheld, deferred, or suspended, the court shall forward a record of the finding to~~
25 ~~the Department of Transportation, Division of Motor Vehicles, which shall record a penalty of~~
26 ~~one point on the violator's drivers license pursuant to the point system established by G.S. 20-~~
27 ~~16. There shall be no insurance premium surcharge or assessment of points under the~~
28 ~~classification plan adopted pursuant to G.S. 58-30.4 for a finding of guilt under this subsection.~~

29 (e) Any person who violates this section in an amount exceeding 500 pounds ~~or~~
30 ~~100 cubic feet~~ or in any quantity for commercial purposes, or ~~dumps who discards~~ litter
31 ~~which that~~ is a hazardous waste as defined in G.S. 130A-290 is guilty of a Class J
32 felony. In addition, the court may order the violator to:

- 33 (1) Remove, or render harmless, the litter that he ~~dumped~~ discarded in
34 violation of this section;
- 35 (2) Repair or restore property damaged by, or pay damages for any
36 damage arising out of, his ~~dumping~~ discarding litter in violation of this
37 section; or
- 38 (3) Perform community public service relating to the removal of litter
39 ~~dumped~~ discarded in violation of this section or to the restoration of an
40 area polluted by litter ~~dumped~~ discarded in violation of this section.

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

42 (f1) If a violation of this section involves the use of a motor vehicle, upon a
43 finding of guilt, regardless of whether adjudication is withheld or of whether imposition
44 of sentence is withheld, deferred, or suspended, the court shall forward a record of the
45 finding to the Department of Transportation, Division of Motor Vehicles, which shall

1 record a penalty of one point on the violator's drivers license pursuant to the point
2 system established by G.S. 20-16. There shall be no insurance premium surcharge or
3 assessment of points under the classification plan adopted pursuant to G.S. 58-30.4 for a
4 finding of guilt under this section.

5 (g) A motor vehicle, vessel, aircraft, container, crane, winch, or machine
6 involved in the disposal of more than 500 pounds ~~or more than 100 cubic feet~~ of litter in
7 violation of this section is declared contraband and is subject to seizure and summary
8 forfeiture to the State.

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

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

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

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

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

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

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

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

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

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

7 Sec. 2. G.S. 7A-148(a) reads as rewritten:

8 "(a) The chief district judges of the various district court districts shall meet at
9 least once a year upon call of the Chief Justice of the Supreme Court to discuss mutual
10 problems affecting the courts and the improvement of court operations, to prepare and
11 adopt a uniform schedule of traffic offenses, littering under G.S. 14-399(c), hunting and
12 fishing offenses under Chapter 113, boating offenses under Chapter 75A, and alcohol
13 offenses under Chapter 18B for which magistrates and clerks of court may accept
14 written appearances, waivers of trial or hearing and pleas of guilty or admissions of
15 responsibility, and establish a schedule of penalties or fines therefor, and to take such
16 further action as may be found practicable and desirable to promote the uniform
17 administration of justice."

18 Sec. 3. This act becomes effective 1 October 1991 and applies to violations
19 that occur on or after that date.