

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 929

Short Title: Littering Penalties.

(Public)

Sponsors: Representatives Lee, Allred (Co-sponsor); Nichols, Russell, Wood, H. Hunter, and R. Hunter.

Referred to: Business & Labor.

April 12, 1995

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT IN ADDITION TO PENALTIES IMPOSED UNDER
2 STRUCTURED SENTENCING FOR LITTERING, A PERSON CONVICTED OF A
3 LITTERING OFFENSE SHALL ALSO BE REQUIRED TO PICK UP LITTER OR
4 PERFORM OTHER LABOR COMMENSURATE WITH THE OFFENSE
5 COMMITTED.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 14-399 reads as rewritten:

9 **"§ 14-399. Littering.**

10 (a) No person, including but not limited to, any firm, organization, private
11 corporation, or governing body, agents or employees of any municipal corporation shall
12 intentionally or recklessly throw, scatter, spill or place or intentionally or recklessly cause
13 to be blown, scattered, spilled, thrown or placed or otherwise dispose of any litter upon
14 any public property or private property not owned by him within this State or in the
15 waters of this State including, but not limited to, any public highway, public park, lake,
16 river, ocean, beach, campground, forest land, recreational area, trailer park, highway,
17 road, street or alley except:

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

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

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

12 (c) Any person who violates this section in an amount not exceeding 15 pounds
13 and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine
14 of not less than one hundred dollars (\$100.00) nor more than five hundred dollars
15 (\$500.00) for the first offense. Any second or subsequent offense is punishable by a fine
16 of not less than one hundred dollars (\$100.00) nor more than one thousand dollars
17 (\$1,000). In addition, the court ~~may~~shall require the violator to pick up litter or perform
18 other labor commensurate with the offense committed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (k) This section does not limit the authority of any State or local agency to enforce
2 other laws, rules or ordinances relating to litter or solid waste management."
3 Sec. 2. This act becomes effective December 1, 1995, and applies to offenses
4 committed on or after that date.