

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1140

Short Title: Littering/Require Comm. Service.

(Public)

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Sponsors: Representatives R. Hunter; Baddour, Hightower, and Mosley.

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Referred to: Judiciary I.

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April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT COMMUNITY SERVICE BE IMPOSED FOR A  
CONVICTION OF 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.

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

6 (c) Any person who violates this section in an amount not exceeding 15 pounds  
7 and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine  
8 of not less than one hundred dollars (\$100.00) nor more than five hundred dollars  
9 (\$500.00) for the first offense. In addition, the court shall require the violator to perform  
10 community service of not less than eight hours nor more than 24 hours. The community  
11 service required shall be to pick up litter if feasible, and if not feasible, to perform other  
12 labor commensurate with the offense committed. Any second or subsequent offense is  
13 punishable by a fine of not less than one hundred dollars (\$100.00) nor more than one  
14 thousand dollars (\$1,000). In addition, the court ~~may~~shall require the violator to  
15 perform community service of not less than 24 hours nor more than 100 hours. The  
16 community service required shall be to pick up litter if feasible, and if not feasible, to ~~or~~  
17 perform other labor commensurate with the offense committed.

18 (d) Any person who violates this section in an amount exceeding 15 pounds but  
19 not exceeding 500 pounds and not for commercial purposes is guilty of a Class 3  
20 misdemeanor punishable by a fine of not less than one hundred dollars (\$100.00) nor  
21 more than one thousand dollars (\$1,000). In addition, the court shall require the violator  
22 to perform community service of not less than 24 hours nor more than 100 hours. The  
23 community service required shall be to pick up litter if feasible, and if not feasible, to ~~or~~  
24 perform other community service commensurate with the offense 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 order  
28 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  
11 designed to fly, but does not include a parachute or any other device  
12 used 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            Section 2. This act becomes effective December 1, 1997, and applies to  
4 offenses committed on or after that date.