

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 1014

Short Title: Strengthen Littering Laws.

(Public)

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Sponsors: Senators Albertson; Allran, Carpenter, Martin of Guilford, Swindell, and Wellons.

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Referred to: Agriculture/Environment/Natural Resources.

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April 5, 2001

1 A BILL TO BE ENTITLED  
2 AN ACT TO STRENGTHEN THE LITTERING LAWS.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** G.S. 14-399 reads as rewritten:

5 "**§ 14-399. Littering.**

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

- 14 (1) When ~~such~~the property is designated by the State or political  
15 subdivision thereof for the disposal of garbage and refuse, and ~~such~~the  
16 person is authorized to use ~~such~~the property for ~~such~~this purpose; or  
17 (2) Into a litter receptacle in such a manner that the litter will be prevented  
18 from being carried away or deposited by the elements upon any part of  
19 such private or public property or waters.

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

25 (c) Any person who violates this section in an amount not exceeding 15 pounds  
26 and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a  
27 fine of not less than two hundred fifty dollars (\$250.00) nor more than one thousand

1 dollars (\$1,000) for the first offense. In addition, the court may require the violator to  
2 perform community service of not less than eight hours nor more than 24 hours. The  
3 community service required shall be to pick up litter if feasible, and if not feasible, to  
4 perform other labor commensurate with the offense committed. Any second or  
5 subsequent offense within three years after the date of a prior offense is punishable by a  
6 fine of not less than five hundred dollars (\$500.00) nor more than two thousand dollars  
7 (\$2,000). In addition, the court may require the violator to perform community service  
8 of not less than 16 hours nor more than 50 hours. The community service required shall  
9 be to pick up litter if feasible, and if not feasible, to perform other labor commensurate  
10 with the offense committed.

11 (d) Any person who violates this section in an amount exceeding 15 pounds but  
12 not exceeding 500 pounds and not for commercial purposes is guilty of a Class 3  
13 misdemeanor punishable by a fine of not less than five hundred dollars (\$500.00) nor  
14 more than two thousand dollars (\$2,000). In addition, the court shall require the violator  
15 to 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  
17 perform other community service commensurate with the offense committed.

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

- 22 (1) Remove, or render harmless, the litter that he discarded in violation of  
23 this section;
- 24 (2) Repair or restore property damaged by, or pay damages for any  
25 damage arising out of, his discarding litter in violation of this section;  
26 or
- 27 (3) Perform community public service relating to the removal of litter  
28 discarded in violation of this section or to the restoration of an area  
29 polluted by litter discarded in violation of this section.

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

31 (f1) If a violation of this section involves the operation of a motor vehicle, upon a  
32 finding of guilt, the court shall forward a record of the finding to the Department of  
33 Transportation, Division of Motor Vehicles, which shall record a penalty of one point  
34 on the violator's drivers license pursuant to the point system established by G.S. 20-16.  
35 There shall be no insurance premium surcharge or assessment of points under the  
36 classification plan adopted under G.S. 58-36-65 for a finding of guilt under this section.

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

40 (h) If a person sustains damages arising out of a violation of this section that is  
41 punishable as a felony, a court, in a civil action for ~~such~~ the damages, shall order the  
42 person to pay the injured party threefold the actual damages or two hundred dollars  
43 (\$200.00), whichever amount is greater. In addition, the court shall order the person to  
44 pay the injured party's court costs and attorney's fees.

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

2 (1) "Aircraft" means a motor vehicle or other vehicle that is used or  
3 designed to fly, but does not include a parachute or any other device  
4 used primarily as safety equipment.

5 (2) Repealed by Session Laws 1999-454, s. 1.

6 (2a) "Commercial purposes" means litter discarded by a business,  
7 corporation, association, partnership, sole proprietorship, or any other  
8 entity conducting business for economic gain, or by an employee or  
9 agent of ~~such~~the entity.

10 (3) "Law enforcement officer" means any ~~officer of the North Carolina~~  
11 ~~Highway Patrol, the State Bureau of Investigation, the Division of~~  
12 ~~Motor Vehicles of the Department of Transportation, a county sheriff's~~  
13 ~~department, a municipal law enforcement department, a law~~  
14 ~~enforcement department of any other political subdivision, the~~  
15 ~~Department, or the North Carolina Wildlife Resources Commission.~~  
16 law enforcement officer sworn and certified pursuant to Chapter 17C  
17 or 17E of the General Statutes, except company police officers as  
18 defined in G.S. 74E-6(b)(3). In addition, and solely for the purposes of  
19 this section, "law enforcement officer" means any employee of a  
20 county or municipality designated by the county or municipality as a  
21 litter enforcement officer. ~~officer; or wildlife protectors as defined in~~  
22 ~~G.S. 113-128(9);~~

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

36 (5) "Vehicle" has the same meaning as in ~~G.S. 20-4.01(49);~~ G.S. 20-  
37 4.01(49). ~~and~~

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

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

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

1           **SECTION 2.** Article 52 of Chapter 52 of the General Statutes is amended by  
2 adding a new section to read:

3 **"§ 14-399.3. Littering; infraction.**

4       (a) No person, including, but not limited to, any firm, organization, private  
5 corporation, or governing body, agents or employees of any municipal corporation shall  
6 throw, scatter, spill or place or cause to be blown, scattered, spilled, thrown or placed or  
7 otherwise dispose of any litter upon any public property or private property not owned  
8 by him within this State or in the waters of this State including, but not limited to, any  
9 public highway, public park, lake, river, ocean, beach, campground, forestland,  
10 recreational area, trailer park, highway, road, street or alley except:

11           (1) When the property is designated by the State or political subdivision  
12 thereof for the disposal of garbage and refuse, and the person is  
13 authorized to use the property for this purpose; or

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

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

22       (c) A violation of this section in an amount not exceeding 15 pounds and not for  
23 commercial purposes is an infraction and shall be punished by a penalty of twenty-five  
24 dollars (\$25.00). Responsibility for an infraction under this subsection has no  
25 consequence other than payment of a penalty. In addition, the court may require the  
26 violation to perform community service of not less than four hours nor more than 12  
27 hours. The community service required shall be to pick up litter if feasible, and if not  
28 feasible, to perform other labor commensurate with the offense committed.

29       (d) A violation of this section in an amount exceeding 15 pounds but not  
30 exceeding 500 pounds and not for commercial purposes is an infraction and shall be  
31 punished by a penalty of fifty dollars (\$50.00). In addition, the court may require the  
32 violation to perform community service of not less than 12 hours nor more than 24 hours.  
33 The community service required shall be to pick up litter if feasible, and if not feasible,  
34 to perform other community service commensurate with the offense committed.

35       (e) A person found responsible for a violation of this section shall not be  
36 assessed court costs. No drivers license points or insurance surcharge shall be assessed  
37 on account of violation of this section.

38       (f) Notwithstanding any other provision of law, it shall be the duty of all law  
39 enforcement officers to enforce the provisions of this section.

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

42       (h) The definitions in G.S. 14-399 apply to this section."

43       **SECTION 3.** G.S. 20-116(g) reads as rewritten:

1       "(g) No vehicle shall be driven or moved on any highway unless ~~such~~the vehicle  
2 is ~~so~~ constructed or loaded ~~as~~ to prevent any of its load from dropping, sifting, leaking,  
3 or otherwise escaping therefrom, except that sand may be dropped for the purpose of  
4 securing traction, or water or other substance may be sprinkled on a roadway in  
5 cleaning or maintaining such roadway. Vehicles shall not contain any holes, cracks, or  
6 openings through which any material may escape.

7       Trucks, trailers or other vehicles when loaded with rock, gravel, stone or any other  
8 ~~similar substances which substance that could fall,~~ blow, leak, sift or drop shall not be  
9 driven or moved on any highway unless the height of the load against all four walls does  
10 not extend above a horizontal line six inches below their tops when loaded ~~at the~~  
11 ~~loading point, or if not so loaded, unless and~~ the load shall be securely covered by  
12 tarpaulin or some other suitable ~~covering, or unless it is otherwise constructed so as~~  
13 covering to prevent any of its load from dropping, sifting, leaking, blowing, or  
14 otherwise escaping therefrom.

15       Provided this section shall not be applicable to or in any manner restrict the  
16 transportation of seed cotton, ~~of poultry or livestock or silage or other feed grain~~  
17 poultry, livestock, silage, or other feed grain used in the feeding of poultry or livestock."

18       **SECTION 4.** Article 2 of Chapter 136 of the General Statutes is amended by  
19 adding a new section to read as follows:

20       "**§ 136-28.11. Litter removal as part of mowing or maintenance contracts.**

21       The Department of Transportation shall remove or provide for the removal of debris,  
22 trash, and litter from the highway and highway right-of-way before mowing or  
23 otherwise maintaining the highway or highway right-of-way. The Department of  
24 Transportation shall include as a term of any contract that it enters into for the mowing  
25 or maintenance of a highway or a highway right-of-way that the contracting party must  
26 remove or provide for the removal of debris, trash, and litter from the highway and  
27 highway right-of-way before mowing or otherwise maintaining the highway or highway  
28 right-of-way."

29       **SECTION 5.** G.S. 153A-136 reads as rewritten:

30       "**§ 153A-136. Regulation of solid wastes.**

31       (a) A county may by ordinance regulate the storage, collection, transportation,  
32 use, disposal, and other disposition of solid wastes. Such an ordinance may:

- 33           (1) Regulate the activities of persons, firms, and corporations, both public  
34           and private.
- 35           (2) Require each person wishing to commercially collect or dispose of  
36           solid wastes to secure a license from the county and prohibit any  
37           person from commercially collecting or disposing of solid wastes  
38           without a license. A fee may be charged for a license.
- 39           (3) Grant a franchise to one or more persons for the exclusive right to  
40           commercially collect or dispose of solid wastes within all or a defined  
41           portion of the county and prohibit any other person from commercially  
42           collecting or disposing of solid wastes in that area. The board of  
43           commissioners may set the terms of any franchise, except that no  
44           franchise may be granted for a period exceeding 30 years, nor may any

1 franchise by its terms impair the authority of the board of  
2 commissioners to regulate fees as authorized by this section.

3 (4) Regulate the fees, if any, that may be charged by licensed or  
4 franchised persons for collecting or disposing of solid wastes.

5 (5) Require the source separation of materials prior to collection of solid  
6 waste for disposal.

7 (6) Require participation in a recycling program by requiring separation of  
8 designated materials by the owner or occupant of the property prior to  
9 disposal. An owner of recovered materials as defined by G.S.  
10 130A-290(a)(24) retains ownership of the recovered materials until the  
11 owner conveys, sells, donates, or otherwise transfers the recovered  
12 materials to a person, firm, company, corporation, or unit of local  
13 government. A county may not require an owner to convey, sell,  
14 donate, or otherwise transfer recovered materials to the county or its  
15 designee. If an owner places recovered materials in receptacles or  
16 delivers recovered materials to specific locations, receptacles, and  
17 facilities that are owned or operated by the county or its designee, then  
18 ownership of these materials is transferred to the county or its  
19 designee.

20 (6a) Regulate the illegal disposal of solid waste, including littering, on  
21 public and private property, provide for enforcement by civil penalties  
22 as well as other remedies, and provide that such regulations may be  
23 enforced by specially appointed environmental officers.

24 (7) Include any other proper matter.

25 (b) Any ordinance adopted pursuant to this section shall be consistent with and  
26 supplementary to any rules adopted by the Commission for Health Services or the  
27 Department of Environment and Natural Resources.

28 (c) The board of commissioners of a county shall consider alternative sites and  
29 socioeconomic and demographic data and shall hold a public hearing prior to selecting  
30 or approving a site for a new sanitary landfill that receives residential solid waste that is  
31 located within one mile of an existing sanitary landfill within the State. The distance  
32 between an existing and a proposed site shall be determined by measurement between  
33 the closest points on the outer boundary of each site. The definitions set out in G.S.  
34 130A-290 apply to this subsection. As used in this subsection:

35 (1) "Approving a site" refers to prior approval of a site under G.S.  
36 130A-294(a)(4).

37 (2) "Existing sanitary landfill" means a sanitary landfill that is in operation  
38 or that has been in operation within the five-year period immediately  
39 prior to the date on which an application for a permit is submitted.

40 (3) "New sanitary landfill" means a sanitary landfill that includes areas not  
41 within the legal description of an existing sanitary landfill as set out in  
42 the permit for the existing sanitary landfill.

43 (4) "Socioeconomic and demographic data" means the most recent  
44 socioeconomic and demographic data compiled by the United States

1 Bureau of the Census and any additional socioeconomic and  
2 demographic data submitted at the public hearing.

3 (d) As used in this section, "solid waste" means nonhazardous solid waste, that is,  
4 solid waste as defined in G.S. 130A-290 but not including hazardous waste."

5 **SECTION 6.** G.S. 160A-185 reads as rewritten:

6 **"§ 160A-185. Emission of pollutants or contaminants.**

7 A city may by ordinance regulate, restrict, or prohibit the emission or disposal of  
8 substances or effluents that tend to pollute or contaminate land, water, or air, rendering  
9 or tending to render it injurious to human health or welfare, to animal or plant life or to  
10 property, or interfering or tending to interfere with the enjoyment of life or property. A  
11 city may by ordinance regulate the illegal disposal of solid waste, including littering, on  
12 public and private property, provide for enforcement by civil penalties as well as other  
13 remedies, and provide that such regulations may be enforced by specially appointed  
14 environmental enforcement officers. Any such ordinance shall be consistent with and  
15 supplementary to State and federal laws and regulations."

16 **SECTION 7.** Article 9 of Chapter 163 of the General Statutes is amended by  
17 adding a new section to read:

18 **"§ 163-22.3. Littering notification and pledge.**

19 At the time an individual files with the State Board of Elections a notice of  
20 candidacy pursuant to G.S. 163-106, 163-112, 163-291, 163-294.2, or 163-323, is  
21 certified to the State Board of Elections by a political party executive committee to fill a  
22 nomination vacancy pursuant to G.S. 163-114, is certified to the State Board of  
23 Elections by a new political party as that party's nominee pursuant to G.S. 163-98,  
24 qualifies with the State Board of Elections as an unaffiliated or write-in candidate  
25 pursuant to Article 11 of this Chapter, or formally initiates a candidacy with the State  
26 Board of Elections pursuant to any statute or local act, the State Board of Elections shall  
27 do both of the following:

28 (1) Notify the candidate of the provisions concerning campaign signs in  
29 G.S. 136-32 and G.S. 14-156 and the rules adopted by the Department  
30 of Transportation pursuant to G.S. 136-18.

31 (2) Require that the candidate sign a pledge to comply with those statutes  
32 and rules. The State Board of Elections shall prepare a form for the  
33 pledge."

34 **SECTION 8.** Article 4 of Chapter 163 of the General Statutes is amended by  
35 adding a new section to read:

36 **"§ 163-33.3. Littering notification and pledge.**

37 At the time an individual files with a county board of elections a notice of candidacy  
38 pursuant to G.S. 163-106, 163-112, 163-291, or 163-294.2, is certified to a county board  
39 of elections by a political party executive committee to fill a nomination vacancy  
40 pursuant to G.S. 163-114, qualifies with a county board of elections as an unaffiliated or  
41 write-in candidate pursuant to Article 11 of this Chapter, or formally initiates with a  
42 county board of elections a candidacy pursuant to any statute or local act, that county  
43 board of elections shall do both of the following:

1           (1) Notify the candidate of the provisions concerning campaign signs in  
2           G.S. 136-32 and G.S. 14-156 and the rules adopted by the Department  
3           of Transportation pursuant to G.S. 136-18.

4           (2) Require that the candidate sign a pledge to comply with those statutes  
5           and rules. The State Board of Elections shall prepare a form for the  
6           pledge."

7           **SECTION 9.** The existing text of G.S. 147-12 is designated as subsection (a)  
8 of that section. G.S. 147-12 is amended by adding a new subsection to read:

9           "(b) The Governor shall be responsible for developing, coordinating, and  
10 implementing the litter prevention and litter removal efforts and initiatives of the State  
11 of North Carolina. The Division of Motor Vehicles of the Department of  
12 Transportation, the State Highway Patrol, every sheriff' department, and every police  
13 department in the State shall deliver to the Governor by February 1 and August 1 of  
14 each year detailed information on the agency's litter enforcement, litter prevention, and  
15 litter removal efforts. The Administrative Office of the Courts shall deliver to the  
16 Governor by February 1 and August 1 of each year detailed information on the  
17 enforcement of the littering laws of the State, including the number of citations issued  
18 and arrests conducted pursuant to the littering laws of the State and the conviction rate  
19 associated with the specific offenses. The Governor shall gather the information  
20 submitted by the respective agencies and deliver a consolidated biannual report on or  
21 before March 1 and September 1 of each year to the Environmental Review  
22 Commission, the Joint Legislative Transportation Oversight Committee, and the House  
23 of Representatives and the Senate Appropriations Subcommittees on Natural and  
24 Economic Resources."

25           **SECTION 10.** The first reports required to be delivered by the Division of  
26 Motor Vehicles of the Department of Transportation, the State Highway Patrol, every  
27 sheriff' department, and every police department in the State to the Governor under G.S.  
28 147-12(b), as enacted by Section 9 of this act, shall be due February 1, 2002. The first  
29 report required to be delivered by the Governor to the Environmental Review  
30 Commission, the Joint Legislative Transportation Oversight Committee, and the House  
31 of Representatives and the Senate Appropriations Subcommittees on Natural and  
32 Economic Resources under G.S. 147-12(b), as enacted by Section 9 of this act, shall be  
33 due March 1, 2002.

34           **SECTION 11.** Sections 5, 6, 10, and 11 of this act are effective when it  
35 becomes law. The remaining sections of the act become effective October 1, 2001.