

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 1014  
Corrected Copy 4/9/01  
Agriculture/Environment/Natural Resources Committee Substitute Adopted  
4/16/01  
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Short Title: Strengthen Littering Laws.

(Public)

Sponsors:

Referred to:

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~~the private or public property or waters.

20 (a1) No person, including but not limited to, any firm, organization, private  
21 corporation, or governing body, agents or employees of any municipal corporation shall  
22 scatter, spill or place or cause to be blown, scattered, spilled, or placed or otherwise  
23 dispose of any litter upon any public property or private property not owned by him  
24 within this State or in the waters of this State including, but not limited to, any public  
25 highway, public park, lake, river, ocean, beach, campground, forest land, recreational  
26 area, trailer park, highway, road, street, or alley except:

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

4           (2) Into a litter receptacle in a manner that the litter will be prevented from  
5 being carried away or deposited by the elements upon any part of the  
6 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 the~~ offense.  
9 This presumption, however, does not apply to a vehicle transporting ~~agricultural~~  
10 ~~products or supplies when the litter from that vehicle is a nontoxic, biodegradable~~  
11 ~~agricultural product or supply.~~ nontoxic and biodegradable agricultural or garden  
12 products or supplies, including mulch, tree bark, wood chips, and raw logs.

13           (c) Any person who violates subsection (a) of this section in an amount not  
14 exceeding 15 pounds and not for commercial purposes is guilty of a Class 3  
15 misdemeanor punishable by a fine of not less than two hundred fifty dollars (\$250.00)  
16 nor more than one thousand dollars (\$1,000) for the first offense. In addition, the court  
17 may require the violator to perform community service of not less than eight hours nor  
18 more than 24 hours. The community service required shall be to pick up litter if  
19 feasible, and if not feasible, to perform other labor commensurate with the offense  
20 committed. Any second or subsequent ~~offense violation~~ of subsection (a) of this section  
21 within three years after the date of a prior offense violation is a Class 3 misdemeanor  
22 punishable by a fine of not less than five hundred dollars (\$500.00) nor more than two  
23 thousand dollars (\$2,000). In addition, the court may require the violator to perform  
24 community service of not less than 16 hours nor more than 50 hours. The community  
25 service required shall be to pick up litter if feasible, and if not feasible, to perform other  
26 labor commensurate with the offense committed.

27           (c1) Any person who violates subsection (a1) of this section in an amount not  
28 exceeding 15 pounds and not for commercial purposes is guilty of an infraction  
29 punishable by a fine of not more than fifty dollars (\$50.00). In addition, the court may  
30 require the violator to perform community service of not less than four hours nor more  
31 than 12 hours. The community service required shall be to pick up litter if feasible, and  
32 if not feasible, to perform other labor commensurate with the offense committed. For  
33 purposes of this subsection, the term "litter" shall not include nontoxic and  
34 biodegradable agricultural or garden products or supplies, including mulch, tree bark,  
35 and wood chips.

36           (d) Any person who violates subsection (a) or (a1) of this section in an amount  
37 exceeding 15 pounds but not exceeding 500 pounds and not for commercial purposes is  
38 guilty of a Class 3 misdemeanor punishable by a fine of not less than five hundred  
39 dollars (\$500.00) nor more than two thousand dollars (\$2,000). In addition, the court  
40 shall require the violator to perform community service of not less than 24 hours nor  
41 more than 100 hours. The community service required shall be to pick up litter if

1 feasible, and if not feasible, to perform other community service commensurate with the  
2 offense committed.

3 (e) Any person who violates subsection (a) or (a1) of this section in an amount  
4 exceeding 500 pounds or in any quantity for commercial purposes, or who discards litter  
5 that is a hazardous waste as defined in G.S. 130A-290 is guilty of a Class I felony. In  
6 addition, the court shall order the violator to:

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

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

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

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

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

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

27 (h) If a person sustains damages arising out of a violation of subsection (a) or  
28 (a1) of this section that is punishable as a felony, a court, in a civil action for ~~such the~~  
29 damages, shall order the person to pay the injured party threefold the actual damages or  
30 two hundred dollars (\$200.00), whichever amount is greater. In addition, the court shall  
31 order the person to pay the injured party's court costs and attorney's fees.

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

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

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

37 (2a) "Commercial purposes" means litter discarded by a business,  
38 corporation, association, partnership, sole proprietorship, or any other  
39 entity conducting business for economic gain, or by an employee or  
40 agent of ~~such the~~ entity.

41 (3) "Law enforcement officer" means any ~~officer of the North Carolina~~  
42 ~~Highway Patrol, the State Bureau of Investigation, the Division of~~

1 ~~Motor Vehicles of the Department of Transportation, a county sheriff's~~  
2 ~~department, a municipal law enforcement department, a law~~  
3 ~~enforcement department of any other political subdivision, the~~  
4 ~~Department, or the North Carolina Wildlife Resources Commission.~~  
5 law enforcement officer sworn and certified pursuant to Chapter 17C  
6 or 17E of the General Statutes, except company police officers as  
7 defined in G.S. 74E-6(b)(3). In addition, and solely for the purposes of  
8 this section, "law enforcement officer" means any employee of a  
9 county or municipality designated by the county or municipality as a  
10 litter enforcement officer. ~~officer; or wildlife protectors as defined in~~  
11 ~~G.S. 113-128(9);~~

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

25 (5) "Vehicle" has the same meaning as in ~~G.S. 20-4.01(49); G.S. 20-~~  
26 ~~4.01(49).~~ and

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

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

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

33 **SECTION 2.** G.S. 20-116(g) reads as rewritten:

34 '(g) (1) No vehicle shall be driven or moved on any highway unless ~~such the~~  
35 ~~vehicle is so constructed or and~~ loaded ~~as to~~ prevent any of its load  
36 from falling, blowing, dropping, sifting, leaking, or otherwise escaping  
37 therefrom, except that therefrom, and the vehicle shall not contain any  
38 holes, cracks, or openings through which any of its load may escape.  
39 However, sand may be dropped for the purpose of securing traction, or  
40 water or other substance may be ~~sprinkled~~ sprinkled, dumped, or  
41 spread on a roadway in cleaning or maintaining such the roadway.

1           (2) Trucks, trailers or other vehicles when loaded with rock, gravel, stone  
2           or ~~other any other~~ similar ~~substances which substance that~~ could fall,  
3           blow, leak, sift or drop shall not be driven or moved on any highway  
4           unless the height of the load against all four walls does not extend  
5           above a horizontal line six inches below their tops when loaded at the  
6           loading ~~point, or if not so loaded, unless~~ point and the load shall be  
7           securely covered by tarpaulin or some other suitable ~~covering, or~~  
8           ~~unless it is otherwise constructed so as covering~~ to prevent any of its  
9           load from falling, dropping, sifting, leaking, blowing, or otherwise  
10          escaping therefrom. This subdivision does not apply to a vehicle  
11          licensed for 7,500 pounds or less gross vehicle weight.

12          (3) ~~Provided this~~ This section shall not be applicable to or in any manner  
13          restrict the transportation of seed cotton, of poultry or livestock or  
14          silage or other feed grain used in the feeding of poultry or livestock.'

15          **SECTION 3.** G.S. 115C-12 is amended by adding a new subdivison to read:

16          "(29) Duty to Study the Inclusion of Litter Prevention in the State's Standard  
17          Course of Study. – The State Board of Education shall study ways to  
18          include the topic of litter prevention in the State's Standard Course of  
19          Study."

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

22          "**§ 136-28.11. Litter removal coordinated with mowing of highway right-of-way**  
23          **and maintenance of highway.**

24          The Department of Transportation shall coordinate the removal of debris, trash, and  
25          litter from highways and highway right-of-ways with the mowing of highway right-of-  
26          ways and the maintenance of highways. The Department of Transportation shall include  
27          as a term of any contract that it enters into for the mowing of a highway right-of-way or  
28          the maintenance of a highway that the contracting party must coordinate the removal of  
29          debris, trash, and litter from the highway and highway right-of-way with the mowing of  
30          the highway right-of-way or the maintenance of the highway."

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

32          "**§ 153A-136. Regulation of solid wastes.**

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

35               (1) Regulate the activities of persons, firms, and corporations, both public  
36               and private.

37               (2) Require each person wishing to commercially collect or dispose of  
38               solid wastes to secure a license from the county and prohibit any  
39               person from commercially collecting or disposing of solid wastes  
40               without a license. A fee may be charged for a license.

41               (3) Grant a franchise to one or more persons for the exclusive right to  
42               commercially collect or dispose of solid wastes within all or a defined

1 portion of the county and prohibit any other person from commercially  
2 collecting or disposing of solid wastes in that area. The board of  
3 commissioners may set the terms of any franchise, except that no  
4 franchise may be granted for a period exceeding 30 years, nor may any  
5 franchise by its terms impair the authority of the board of  
6 commissioners to regulate fees as authorized by this section.

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

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

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

24 (6a) Regulate the illegal disposal of solid waste, including littering, on  
25 public and private property, provide for enforcement by civil penalties  
26 as well as other remedies, and provide that such regulations may be  
27 enforced by specially appointed environmental officers.

28 (7) Include any other proper matter.

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

32 (c) The board of commissioners of a county shall consider alternative sites and  
33 socioeconomic and demographic data and shall hold a public hearing prior to selecting  
34 or approving a site for a new sanitary landfill that receives residential solid waste that is  
35 located within one mile of an existing sanitary landfill within the State. The distance  
36 between an existing and a proposed site shall be determined by measurement between  
37 the closest points on the outer boundary of each site. The definitions set out in G.S.  
38 130A-290 apply to this subsection. As used in this subsection:

39 (1) "Approving a site" refers to prior approval of a site under G.S.  
40 130A-294(a)(4).

- 1 (2) "Existing sanitary landfill" means a sanitary landfill that is in operation  
2 or that has been in operation within the five-year period immediately  
3 prior to the date on which an application for a permit is submitted.
- 4 (3) "New sanitary landfill" means a sanitary landfill that includes areas not  
5 within the legal description of an existing sanitary landfill as set out in  
6 the permit for the existing sanitary landfill.
- 7 (4) "Socioeconomic and demographic data" means the most recent  
8 socioeconomic and demographic data compiled by the United States  
9 Bureau of the Census and any additional socioeconomic and  
10 demographic data submitted at the public hearing.

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

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

14 **"§ 160A-185. Emission of pollutants or contaminants.**

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

24 **SECTION 7.** Article 3 of Chapter 163 of the General Statutes is amended by  
25 adding a new section to read:

26 **"§ 163-22.3. Littering notification and pledge.**

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

- 36 (1) Notify the candidate of the provisions concerning campaign signs in  
37 G.S. 136-32 and G.S. 14-156, and the rules adopted by the Department  
38 of Transportation pursuant to G.S. 136-18.
- 39 (2) Require that the candidate sign a pledge to comply with those statutes  
40 and rules. The State Board of Elections shall prepare a form for the  
41 pledge."

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

3 **"§ 163-33.3. Littering notification and pledge.**

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

- 11           (1) Notify the candidate of the provisions concerning campaign signs in  
12 G.S. 136-32 and G.S. 14-156, and the rules adopted by the Department  
13 of Transportation pursuant to G.S. 136-18.  
14           (2) Require that the candidate sign a pledge to comply with those statutes  
15 and rules. The State Board of Elections shall prepare a form for the  
16 pledge."

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

19           "(b) The Division of Motor Vehicles of the Department of Transportation, the  
20 State Highway Patrol, the Wildlife Resources Commission, the Division of Parks and  
21 Recreation in the Department of Environment and Natural Resources, and the Division  
22 of Marine Fisheries in the Department of Environment and Natural Resources shall  
23 deliver to the Governor by February 1 and August 1 of each year detailed information  
24 on the agency's litter enforcement, litter prevention, and litter removal efforts. The  
25 Administrative Office of the Courts shall deliver to the Governor by February 1 and  
26 August 1 of each year detailed information on the enforcement of the littering laws of  
27 the State, including the number of citations issued and arrests conducted pursuant to the  
28 littering laws of the State and the conviction rate associated with the specific offenses.  
29 The Governor shall gather the information submitted by the respective agencies and  
30 deliver a consolidated biannual report on or before March 1 and September 1 of each  
31 year to the Environmental Review Commission, the Joint Legislative Transportation  
32 Oversight Committee, and the House of Representatives and the Senate Appropriations  
33 Subcommittees on Natural and Economic Resources."

34           **SECTION 10.** The first reports required to be delivered by the Division of  
35 Motor Vehicles of the Department of Transportation, the State Highway Patrol, the  
36 Wildlife Resources Commission, the Division of Parks and Recreation in the  
37 Department of Environment and Natural Resources, the Division of Marine Fisheries in  
38 the Department of Environment and Natural Resources, and the Administrative Office  
39 of the Courts to the Governor under G.S. 147-12(b), as enacted by Section 9 of this act,  
40 shall be due February 1, 2002. The first report required to be delivered by the Governor  
41 to the Environmental Review Commission, the Joint Legislative Transportation  
42 Oversight Committee, and the House of Representatives and the Senate Appropriations



1 Subcommittees on Natural and Economic Resources under G.S. 147-12(b), as enacted  
2 by Section 9 of this act, shall be due March 1, 2002.

3           **SECTION 11.** Article 11 of Chapter 143B of the General Statutes is  
4 amended by adding a new section to read:

5 "**§ 143B-476.1. Community Service Work Program Report.**

6       The Department of Crime Control and Public Safety shall report to the  
7 Environmental Review Commission on or before September 1 of each year on the litter  
8 removal efforts of the Community Service Work Program. This report shall include the  
9 amount of litter removed and the number of community service hours committed to the  
10 removal of litter."

11           **SECTION 12.** The General Assembly of North Carolina acknowledges the  
12 establishment of North Carolina First in the Division of Travel and Tourism in the  
13 Department of Commerce and shall encourage and facilitate its litter prevention efforts.

14           **SECTION 13.** Sections 3, 5, 6, 9, 10, 11, 12, and 13 of this act are effective  
15 when it becomes law. The remaining sections of the act become effective December 1,  
16 2001, and apply to offenses committed on or after this date.