

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1202

Short Title: Litter Violation Reported by Citizen.

(Public)

Sponsors: Senator Jacumin.

Referred to: Judiciary II (Criminal).

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A CITATION MAY BE ISSUED FOR A LITTERING
OFFENSE THAT INVOLVES THE OPERATION OF A MOTOR VEHICLE
BASED ON THE AFFIDAVIT OF A WITNESS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 52 of Chapter 14 of the General Statutes is amended by
adding a new section to read:

"§ 14-399.3. Civil penalty for litter may be assessed based on witness's affidavit.

(a) Reporting of Litter Violation. – Any North Carolina resident who witnesses a
littering violation under G.S.14-399 that involves the operation of a motor vehicle may
file a sworn affidavit reporting the incident with a magistrate in the county in which the
violation occurred. The affidavit may be mailed by first-class mail to the magistrate in
the appropriate county. The affidavit shall include the license plate of the vehicle
involved in the violation, a description of the vehicle, and the date, location, and
approximate time of the violation.

(b) Citation Issued. – The magistrate shall issue a citation to the owner of the
vehicle based on the affidavit filed by the witness. The citation shall clearly state the
violation, the penalty for the violation, the procedure for paying the civil penalty
assessed, and the manner in which the violation may be challenged. The citation shall be
forwarded by personal service or first-class mail to the address given on the motor
vehicle registration.

(c) Responsibility of Vehicle Owner and Procedure for Challenging the
Violation. – Notwithstanding G.S. 14-399.3(b) the owner of the vehicle shall be
responsible for a violation unless the owner can furnish evidence that the vehicle was, at
the time of the violation, in the care, custody, or control of another person. The owner of
the vehicle shall not be responsible for the violation if the owner of the vehicle, within
21 days after notification of the violation, furnishes to a magistrate of the county that
issued the citation the following:

- 1 (1) The name and address of the person or company who leased, rented, or
2 otherwise had the care, custody, and control of the vehicle; or
3 (2) An affidavit stating that the vehicle involved was at the time stolen or
4 in the care, custody, or control of some person who did not have
5 permission of the owner to use the vehicle.

6 (d) Civil Penalties. – Notwithstanding G.S. 14-399, a violation enforced under
7 this section shall be a noncriminal violation for which a civil penalty of one hundred
8 dollars (\$100.00) shall be assessed. If the vehicle owner fails to pay the civil penalty or
9 to respond to the citation within the time period specified on the citation, the owner
10 shall have waived the right to contest responsibility for the violation and shall be subject
11 to an additional civil penalty for failure to respond not to exceed twenty-five dollars
12 (\$25.00). The clear proceeds of civil penalties provided for in this section shall be
13 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.
14 The actual costs of collection, not to exceed twenty percent (20%) of the amount
15 collected shall be remitted to the clerk of court to be credited to the office of the
16 magistrate.

17 (e) Administrative Office of the Courts to Establish Collection and Appeal
18 Procedures. – The Administrative Office of the Courts shall establish procedures for the
19 collection of the penalties assessed under this section and may enforce the penalties by
20 civil action in the nature of debt."

21 **SECTION 2.** G.S. 7A-292 is amended by adding the following new
22 subdivisions to read:

- 23 "(15) To accept the filing of affidavits reporting litter violations and to issue
24 citations pursuant to G.S. 14-399.3.
25 (16) To hear and enter judgment in all litter cases appealed under
26 G.S. 14-399.3."

27 **SECTION 3.** By December 1, 2007, the Administrative Office of the Courts
28 shall develop an affidavit form that may be used to report a violation as provided by
29 G.S. 14-399.3. The Administrative Office of the Courts shall provide the forms to each
30 magistrate in the State and shall also make the form accessible to the public through the
31 Internet. Each magistrate shall make the printed forms available to any member of the
32 general public who requests one.

33 **SECTION 4.** Section 3 of this act is effective when it becomes law. The
34 remainder of this act becomes effective December 1, 2007, and applies to offenses
35 committed on or after that date.