

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 635
PROPOSED COMMITTEE SUBSTITUTE S635-PCS95093-RK-81

Short Title: Littering Offenses/Increase Fines.

(Public)

Sponsors:

Referred to:

April 19, 2011

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE FINES FOR LITTERING OFFENSES.

The General Assembly of North Carolina enacts:

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

"§ 14-399. Littering.

(a) No person, including 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 the person within this State or in the waters of this State including any public highway, public park, lake, river, ocean, beach, campground, forestland, recreational area, trailer park, highway, road, street or alley except:

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

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

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

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

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

(a2) Subsection (a1) of this section does not apply to the accidental blowing, scattering, or spilling of an insignificant amount of municipal solid waste, as defined in G.S. 130A-290(18a), during the automated loading of a vehicle designed and constructed to



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1 transport municipal solid waste if the vehicle is operated in a reasonable manner and according
2 to manufacturer specifications.

3 (b) When litter is blown, scattered, spilled, thrown or placed from a vehicle or
4 watercraft, the operator thereof shall be presumed to have committed the offense. This
5 presumption, however, does not apply to a vehicle transporting nontoxic and biodegradable
6 agricultural or garden products or supplies, including mulch, tree bark, wood chips, and raw
7 logs.

8 (c) Any person who violates subsection (a) of this section in an amount not exceeding
9 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a
10 fine of not less than ~~two hundred fifty dollars (\$250.00)~~ one thousand dollars (\$1,000) nor more
11 than ~~one thousand dollars (\$1,000)~~ four thousand dollars (\$4,000) for the first offense. In
12 addition, the court may require the violator to perform community service of not less than eight
13 hours nor more than 24 hours. The community service required shall be to pick up litter if
14 feasible, and if not feasible, to perform other labor commensurate with the offense committed.
15 Any second or subsequent violation of subsection (a) of this section in an amount not
16 exceeding 15 pounds and not for commercial purposes within three years after the date of a
17 prior violation is a Class 3 misdemeanor punishable by a fine of not less than ~~five hundred~~
18 ~~dollars (\$500.00)~~ two thousand dollars (\$2,000) nor more than ~~two thousand dollars (\$2,000)~~
19 eight thousand dollars (\$8,000). In addition, the court may require the violator to perform
20 community service of not less than 16 hours nor more than 50 hours. The community service
21 required shall be to pick up litter if feasible, and if not feasible, to perform other labor
22 commensurate with the offense committed.

23 (c1) Any person who violates subsection (a1) of this section in an amount not exceeding
24 15 pounds is guilty of an infraction punishable by a minimum fine of two hundred fifty dollars
25 (\$250.00) and a maximum fine of not more than one hundred dollars (\$100.00), ~~one thousand~~
26 ~~dollars (\$1,000)~~. ~~In addition, the court may require the violator to perform community service~~
27 ~~of not less than four hours nor more than 12 hours.~~ On a first offense under this subsection, the
28 violator may elect to perform 12 hours of community service in lieu of any imposed fine
29 amount that is in excess of two hundred fifty dollars (\$250.00). If the violator elects to perform
30 community service, The the community service required shall be to pick up litter if feasible,
31 and if not feasible, to perform other labor commensurate with the offense committed. Any
32 second or subsequent violation of subsection (a1) of this section in an amount not exceeding 15
33 pounds within three years after the date of a prior violation is an infraction punishable by a fine
34 of not more than ~~two hundred dollars (\$200.00)~~ two thousand dollars (\$2,000). In addition, the
35 court may require the violator to perform community service of not less than eight hours nor
36 more than 24 hours. The community service required shall be to pick up litter if feasible, and if
37 not feasible, to perform other labor commensurate with the offense committed. For purposes of
38 this subsection, the term "litter" shall not include nontoxic and biodegradable agricultural or
39 garden products or supplies, including mulch, tree bark, and wood chips.

40 (d) Any person who violates subsection (a) of this section in an amount exceeding 15
41 pounds but not exceeding 500 pounds and not for commercial purposes is guilty of a Class 3
42 misdemeanor punishable by a fine of not less than ~~five hundred dollars (\$500.00)~~ two thousand
43 dollars (\$2,000) nor more than ~~two thousand dollars (\$2,000)~~ eight thousand dollars (\$8,000).
44 In addition, the court shall require the violator to perform community service of not less than
45 24 hours nor more than 100 hours. The community service required shall be to pick up litter if
46 feasible, and if not feasible, to perform other community service commensurate with the
47 offense committed.

48 (d1) Any person who violates subsection (a1) of this section in an amount exceeding 15
49 pounds but not exceeding 500 pounds is guilty of an infraction punishable by a fine of not more
50 than ~~two hundred dollars (\$200.00)~~ two thousand dollars (\$2,000). In addition, the court may
51 require the violator to perform community service of not less than eight hours nor more than 24

1 hours. The community service required shall be to pick up litter if feasible, and if not feasible,
2 to perform other labor commensurate with the offense committed.

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

6 (e1) Any person who violates subsection (a1) of this section in an amount exceeding 500
7 pounds is guilty of an infraction punishable by a fine of not more than ~~three hundred dollars~~
8 ~~(\$300.00)~~, three thousand dollars (\$3,000). In addition, the court may require the violator to
9 perform community service of not less than 16 hours nor more than 50 hours. The community
10 service required shall be to pick up litter if feasible, and if not feasible, to perform other labor
11 commensurate with the offense committed.

12 (e2) If any person violates subsection (a) or (a1) of this section in an amount exceeding
13 15 pounds or in any quantity for commercial purposes, or discards litter that is a hazardous
14 waste as defined in G.S. 130A-290, the court shall order the violator to:

- 15 (1) Remove, or render harmless, the litter that he discarded in violation of this
16 section;
- 17 (2) Repair or restore property damaged by, or pay damages for any damage
18 arising out of, his discarding litter in violation of this section; or
- 19 (3) Perform community public service relating to the removal of litter discarded
20 in violation of this section or to the restoration of an area polluted by litter
21 discarded in violation of this section.

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

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

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

32 (h) If a person sustains damages arising out of a violation of subsection (a) of this
33 section that is punishable as a felony, a court, in a civil action for the damages, shall order the
34 person to pay the injured party threefold the actual damages or ~~two hundred dollars~~
35 ~~(\$200.00)~~, one thousand dollars (\$1,000), whichever amount is greater. In addition, the court
36 shall order the person to pay the injured party's court costs and attorney's fees.

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

- 38 (1) "Aircraft" means a motor vehicle or other vehicle that is used or designed to
39 fly, but does not include a parachute or any other device used primarily as
40 safety equipment.
- 41 (2) Repealed by Session Laws 1999-454, s. 1.
- 42 (2a) "Commercial purposes" means litter discarded by a business, corporation,
43 association, partnership, sole proprietorship, or any other entity conducting
44 business for economic gain, or by an employee or agent of the entity.
- 45 (3) "Law enforcement officer" means any law enforcement officer sworn and
46 certified pursuant to Chapter 17C or 17E of the General Statutes, except
47 company police officers as defined in G.S. 74E-6(b)(3). In addition, and
48 solely for the purposes of this section, "law enforcement officer" means any
49 employee of a county or municipality designated by the county or
50 municipality as a litter enforcement officer.

- 1 (4) "Litter" means any garbage, rubbish, trash, refuse, can, bottle, box,
2 container, wrapper, paper, paper product, tire, appliance, mechanical
3 equipment or part, building or construction material, tool, machinery, wood,
4 motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or
5 equipment, sludge from a waste treatment facility, water supply treatment
6 plant, or air pollution control facility, dead animal, or discarded material in
7 any form resulting from domestic, industrial, commercial, mining,
8 agricultural, or governmental operations. While being used for or distributed
9 in accordance with their intended uses, "litter" does not include political
10 pamphlets, handbills, religious tracts, newspapers, and other similar printed
11 materials the unsolicited distribution of which is protected by the
12 Constitution of the United States or the Constitution of North Carolina.
- 13 (5) "Vehicle" has the same meaning as in G.S. 20-4.01(49).
- 14 (6) "Watercraft" means any boat or vessel used for transportation across the
15 water.
- 16 (j) It shall be the duty of all law enforcement officers to enforce the provisions of this
17 section.
- 18 (k) This section does not limit the authority of any State or local agency to enforce
19 other laws, rules or ordinances relating to litter or solid waste management."
- 20 **SECTION 2.** This act becomes effective December 1, 2011, and applies to
21 offenses committed on or after that date.