

1 HB500
2 194592-2
3 By Representative Wilcox
4 RFD: State Government
5 First Read: 23-APR-19

1 "(a) A person commits the crime of criminal
2 littering if he or she engages in any of the following acts:

3 "(1) Knowingly deposits in any manner litter on any
4 public or private property or in any public or private waters,
5 ~~having no~~ without permission to do so. For purposes of this
6 subdivision, any series of items found in the garbage, trash,
7 or other discarded material including, but not limited to,
8 bank statements, utility bills, bank card bills, and other
9 financial documents, clearly bearing the name of a person
10 shall constitute a rebuttable presumption that the person
11 whose name appears ~~thereon~~ on the material knowingly deposited
12 the litter. Advertising, marketing, and campaign materials and
13 literature shall not be sufficient to constitute a rebuttable
14 presumption of criminal littering under this subsection.

15 "(2) Negligently deposits, in any manner, glass or
16 other dangerously pointed or edged objects on or adjacent to
17 water to which the public has lawful access for bathing,
18 swimming, or fishing, or on or upon a public highway, ~~or~~
19 within the right-of-way ~~thereof~~.

20 "(3) Discharges sewage, oil products, or litter ~~from~~
21 ~~a watercraft vessel of more than 25 feet in length into a~~
22 ~~river, inland lake, or stream within the state or within three~~
23 ~~miles of the shoreline~~ territorial waters of the state.

24 "(4) a. ~~Drops or permits to be dropped or thrown~~
25 Throws, drops, or permits to be thrown or dropped any litter
26 upon or alongside any highway, road, street, or public

1 ~~right-of-way any destructive or injurious material~~ and does
2 not immediately remove the same or cause it to be removed; or

3 "b. Removes a wrecked or damaged vehicle from a
4 highway and does not remove glass or other injurious substance
5 dropped upon the highway from ~~such~~ the vehicle.

6 "(b) ~~"Litter"~~ For the purposes of this section,
7 litter means rubbish, refuse, waste material, garbage, dead
8 animals or fowl, offal, paper, glass, cans, bottles, trash,
9 scrap metal, debris, plastic, cigarettes, cigars, containers
10 of urine, food containers, rubber tires, or any foreign
11 substance ~~of whatever kind and description, and whether or not~~
12 ~~it is of value.~~ Any agricultural product in its natural state
13 that is unintentionally deposited on a public highway, road,
14 street, or public right-of-way ~~shall not be deemed~~ is not
15 litter for purposes of this section or Section 32-5-76. Any
16 other law or ordinance to the contrary notwithstanding, the
17 unintentional depositing of an agricultural product in its
18 natural state on a public highway, road, street, or
19 right-of-way shall not constitute unlawful littering or any
20 similarly prohibited activity.

21 "(c) It is no defense under ~~subsections~~ subdivisions
22 (a) (3) and (a) (4) that the actor did not intend, or was
23 unaware of, the act charged.

24 "(d) (1) Criminal littering is a Class C B
25 misdemeanor. The ~~minimum~~ fine for the first conviction shall
26 be ~~two hundred fifty dollars (\$250), and the fine up to five~~
27 hundred dollars (\$500). The punishment for the second and any

1 subsequent conviction shall ~~be five hundred dollars (\$500) for~~
2 ~~each conviction~~ include either a fine of up to one thousand
3 dollars (\$1,000) and up to 100 hours of community service in
4 the form of picking up litter along highways, roads, streets,
5 public rights-of-way, public sidewalks, public walkways, or
6 public waterways, or by a fine of not less than two thousand
7 dollars (\$2,000) and not more than three thousand dollars
8 (\$3,000).

9 "2) In addition to the penalties provided in
10 subdivision (1), littering of any of the following in
11 violation of subsection (a) shall result in an additional fine
12 of up to five hundred dollars (\$500) per violation:

13 "a. Cigarettes or cigars.

14 "b. Containers of urine.

15 "c. Food containers.

16 "(e) ~~The~~ Fifty percent of the fine from ~~such a~~
17 conviction under this section shall be ~~awarded and~~ distributed
18 by the court to the ~~municipal, and/or~~ State General Fund and
19 50 percent to the municipality or county, ~~and/or State General~~
20 ~~Fund, or both,~~ following a determination by the court of whose
21 law enforcement agencies or departments have been a
22 participant in the arrest or citation resulting in the fine.
23 ~~Such~~ The award and distribution to the county and municipality
24 shall be made on the basis of the percentage as determined by
25 the court, which the respective agency or department
26 contributed to the police work resulting in the arrest, and
27 shall be spent by the governing body on law and litter

1 enforcement purposes only. Litter enforcement may include, but
2 not be limited to, anti-littering education, publication and
3 distribution of related educational materials, and
4 anti-littering advertising.

5 "(f) No action for criminal littering based on
6 evidence that creates a rebuttable presumption under
7 ~~subsection~~ subdivision (a) (1) shall be brought against a
8 person by or on behalf of a county or municipal governing body
9 unless he or she has been given written notice by a designee
10 of the governing body that items found in an accumulation of
11 garbage, trash, or other discarded materials contain his or
12 her name, and that, under ~~subsection~~ subdivision (a) (1), there
13 is a rebuttable presumption that he or she knowingly deposited
14 the litter. The notice shall advise the person that criminal
15 littering is a Class C B misdemeanor, and shall provide that,
16 unless the person can present satisfactory information or
17 evidence to rebut the presumption to the designee of the
18 governing body within 15 days from the date of the notice, an
19 action for criminal littering may be filed against him or her
20 in the appropriate court. If the person responds to the notice
21 and presents information or evidence to the designee of the
22 governing body, the designee shall review the information or
23 evidence presented and make a determination as to whether or
24 not an action should be brought against the person for
25 criminal littering. The designee shall provide written notice
26 to the person of its determination, and if the intent is to

1 proceed with an action for criminal littering, the notice
2 shall be sent before any action is filed.

3 "(g) Upon approval of the county commission, the
4 county license inspector and his or her deputies employed
5 under Section 40-12-10 shall have the same authority to issue
6 citations against persons violating this section as county
7 license inspectors have with regard to persons violating
8 revenue laws as provided in Section 40-12-10. In addition, the
9 county solid waste officer, as defined in subsection (b) of
10 Section 22-27-3, shall have the same authority to issue
11 citations against persons violating this section as solid
12 waste officers have with regard to persons violating the Solid
13 Wastes Disposal Act pursuant to subsection (b) of Section
14 22-27-3.

15 "(h) Nothing ~~herein~~ in this section shall authorize
16 a county license inspector or solid waste officer to take any
17 person into custody pursuant to this section unless the
18 inspector or officer is a law enforcement officer employed by
19 a law enforcement agency as defined in Section 36-21-40.

20 "§23-5-6.

21 "If ~~a misdemeanor~~ littering is committed as set
22 forth in Section 13A-7-29 or Section 32-5A-60 from a motor
23 vehicle, the driver of the vehicle shall be presumed to be the
24 offender.

25 "§32-5-76.

26 "(a) (1) Whoever willfully and knowingly operates,
27 owns, or causes to be operated on any public highway, road,

1 street, or public right-of-way a motor vehicle so loaded with
2 gravel, rock, slag, bricks, in ~~such~~ any manner or in ~~such~~ any
3 condition that the contents of the vehicle spill out and cause
4 it to be deposited upon the highway, road, street, or public
5 right-of-way is guilty of a Class C B misdemeanor ~~and upon~~
6 ~~conviction shall be fined not more than \$500.00,~~ pursuant to
7 Section 13A-7-29, the criminal littering statute, ~~and shall~~
8 ~~receive an assessment by the Alabama State Law Enforcement~~
9 ~~Agency of three points on his or her driver license.~~

10 "(2) The Alabama State Law Enforcement Agency shall
11 adopt rules to implement this subsection.

12 "(b) No vehicle shall be driven or moved on any
13 highway unless ~~such~~ the vehicle is so constructed or loaded as
14 to prevent any of its load from dropping, sifting, leaking or
15 otherwise escaping therefrom, except that sand may be dropped
16 for the purpose of securing traction, or water or other
17 substance may be sprinkled on a roadway in cleaning or
18 maintaining ~~such~~ the roadway.

19 "(c) (1) Whoever willfully and knowingly operates,
20 owns, or causes to be operated on a public highway, road,
21 street, or public right-of-way, a motor vehicle in ~~such~~ any
22 manner or in ~~such~~ any condition that litter is caused or
23 allowed to be deposited upon the highway, road, or street or
24 public right-of-way, is guilty of a Class C B misdemeanor ~~and~~
25 ~~upon conviction shall be fined not more than \$500.00,~~ pursuant
26 to Section 13A-7-29, the criminal littering statute, ~~and shall~~

1 ~~receive an assessment by the Alabama State Law Enforcement~~
2 ~~Agency of three points on his or her driver license.~~

3 "(2) The Alabama State Law Enforcement Agency shall
4 adopt rules to implement this subsection.

5 "(d) Any agricultural product in its natural state
6 that is unintentionally deposited upon a highway, road,
7 street, or public right-of-way does not constitute litter for
8 purposes of this section or Section 13A-7-29.

9 "§32-5A-60.

10 "(a) No person shall throw or deposit upon or
11 alongside any highway, road or, street, or public right-of-way
12 any glass bottle, glass, nails, tacks, wire, cans, cigarettes,
13 cigars, containers of urine, or any other substance likely to
14 injure any person, animal, or vehicle upon such or alongside
15 the highway, road, street, or public right-of-way.

16 "(b) Any person who throws, drops, or permits to be
17 dropped or thrown thrown or dropped, upon any highway any
18 destructive or injurious material shall immediately remove the
19 same material or cause it to be removed.

20 "(c) Any person removing a wrecked or damaged
21 vehicle from a highway shall remove any glass or other
22 injurious substance dropped upon the highway from such the
23 vehicle.

24 "(d) No person shall throw or drop litter or allow
25 litter to be thrown from a motor vehicle onto or upon or
26 alongside any highway, road or street, or public right-of-way.

1 "(e) The uniform traffic citation may be used for
2 any violation of this section.

3 "(f) "Litter" as used in this section is the same as
4 defined in Section 13A-7-29.

5 "(g) (1) Notwithstanding the provisions of Section
6 32-5A-266, any person violating ~~the provisions of~~ this section
7 shall be guilty of a Class ~~C~~ B misdemeanor ~~and upon conviction~~
8 ~~shall be fined not more than \$500.00,~~ pursuant to Section
9 13A-7-29, the criminal littering statute. ~~Any person violating~~
10 ~~subsection (d) of this section shall receive an assessment by~~
11 ~~the Alabama State Law Enforcement Agency of three points on~~
12 ~~his or her driver license.~~

13 "(2) The Alabama State Law Enforcement Agency shall
14 adopt rules to implement this subsection.

15 "§33-6-10.

16 "(a) ~~The provisions of this~~ This chapter and rules,
17 ~~regulations and orders adopted hereunder~~ under this chapter
18 shall be enforced by the State Board of Health and the State
19 Department of Conservation and Natural Resources according to
20 rules ~~and regulations hereunder~~ adopted by the board and
21 department.

22 "(b) Any person may complain under oath to a
23 magistrate, district attorney, or grand jury concerning a
24 violation of ~~the provisions of~~ this chapter or of a rule ~~and~~
25 ~~regulation promulgated thereunder~~ adopted under this chapter
26 and if a warrant is issued by ~~said~~ the magistrate or district
27 attorney, or indictment returned by a grand jury, ~~said~~ the

1 charge shall be tried in court to which ~~said~~ the warrant is
2 returnable, and ~~said~~ the warrant may be made returnable to a
3 district court or to the circuit court and ~~said~~ the courts
4 shall have original and concurrent jurisdiction of ~~said~~ the
5 offense, or if an indictment is returned, the circuit court
6 shall have jurisdiction of ~~said~~ the offense. ~~In such cases~~
7 ~~convicted defendants~~ Convicted persons may appeal as now
8 provided by law. Whether criminal proceedings have been
9 commenced or not, the state health officer ~~is authorized to~~
10 may bring a civil action in the circuit court against the
11 owner, operator, the or person in charge of any vessel or
12 watercraft to compel compliance with ~~the provisions of this~~
13 chapter or the ~~rules and regulations promulgated thereunder~~
14 adopted under this chapter, and ~~said~~ the circuit court shall
15 have jurisdiction of ~~said~~ the case.

16 "(c) Any individual who discharges from any
17 watercraft any sewage or litter into the waters of this state
18 or any owner or operator of any watercraft who knowingly
19 allows or permits ~~such~~ discharge in violation of ~~any provision~~
20 ~~of~~ this chapter, or without a permit from the State Board of
21 Health, when ~~such~~ a permit is required, or if any person ~~shall~~
22 ~~violate~~ violates any rule, ~~regulation~~ or order ~~promulgated~~
23 adopted under this chapter, ~~such~~ that person shall be guilty
24 of a Class B misdemeanor and on conviction shall be punished
25 pursuant to Section 13A-7-29, the criminal littering statute
26 ~~by a fine of not less than \$10.00 nor more than \$1,000.00, or~~
27 ~~by imprisonment at hard labor in the county jail for not over~~

1 ~~12 months, or by both fine and imprisonment; and each such~~
2 ~~discharge of sewage or litter shall constitute a separate~~
3 ~~offense."~~

4 Section 2. Although this bill would have as its
5 purpose or effect the requirement of a new or increased
6 expenditure of local funds, the bill is excluded from further
7 requirements and application under Amendment 621, now
8 appearing as Section 111.05 of the Official Recompilation of
9 the Constitution of Alabama of 1901, as amended, because the
10 bill defines a new crime or amends the definition of an
11 existing crime.

12 Section 3. This act shall become effective on the
13 first day of the third month following its passage and
14 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on State Government
..... 23-APR-19

Read for the second time and placed
on the calendar..... 14-MAY-19

Read for the third time and passed
as amended..... 23-MAY-19

Yeas 95, Nays 5, Abstains 0

Jeff Woodard
Clerk