

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

1  
2 ENROLLED, An Act,

3           Relating to littering; to amend Sections 13A-7-29,  
4 23-5-6, 32-5-76, 32-5A-60, and 33-6-10, Code of Alabama 1975,  
5 to provide additional penalties for criminal littering to  
6 include enhanced penalties for littering of cigarettes,  
7 cigars, containers of urine, restaurant food containers, and  
8 other specified waste items; to include within the enhanced  
9 penalties increased fines and mandatory community service  
10 requirements when littering is committed from a motor vehicle;  
11 and in connection therewith would have as its purpose or  
12 effect the requirement of a new or increased expenditure of  
13 local funds within the meaning of Amendment 621 of the  
14 Constitution of Alabama of 1901, now appearing as Section  
15 111.05 of the Official Recompilation of the Constitution of  
16 Alabama of 1901, as amended.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18           Section 1. Sections 13A-7-29, 23-5-6, 32-5-76,  
19 32-5A-60, and 33-6-10, Code of Alabama 1975, are amended to  
20 read as follows:

21           "§13A-7-29.

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

24           "(1) Knowingly deposits in any manner litter on any  
25 public or private property or in any public or private waters;

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

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

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

20 "(4) a. ~~Drops or permits to be dropped or thrown~~  
21 Throws, drops, or permits to be thrown or dropped any litter  
22 upon or alongside any highway, road, street, or public  
23 right-of-way ~~any destructive or injurious material~~ and does  
24 not immediately remove the same or cause it to be removed; or

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

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

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

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

1 contributed to the police work resulting in the arrest, and  
2 shall be spent by the governing body on law and litter  
3 enforcement purposes only. Litter enforcement may include, but  
4 not be limited to, anti-littering education, publication and  
5 distribution of related educational materials, and  
6 anti-littering advertising.

7 "(f) No action for criminal littering based on  
8 evidence that creates a rebuttable presumption under  
9 ~~subsection~~ subdivision (a) (1) shall be brought against a  
10 person by or on behalf of a county or municipal governing body  
11 unless he or she has been given written notice by a designee  
12 of the governing body that items found in an accumulation of  
13 garbage, trash, or other discarded materials contain his or  
14 her name, and that, under ~~subsection~~ subdivision (a) (1), there  
15 is a rebuttable presumption that he or she knowingly deposited  
16 the litter. The notice shall advise the person that criminal  
17 littering is a Class C B misdemeanor, and shall provide that,  
18 unless the person can present satisfactory information or  
19 evidence to rebut the presumption to the designee of the  
20 governing body within 15 days from the date of the notice, an  
21 action for criminal littering may be filed against him or her  
22 in the appropriate court. If the person responds to the notice  
23 and presents information or evidence to the designee of the  
24 governing body, the designee shall review the information or  
25 evidence presented and make a determination as to whether or

1 not an action should be brought against the person for  
2 criminal littering. The designee shall provide written notice  
3 to the person of its determination, and if the intent is to  
4 proceed with an action for criminal littering, the notice  
5 shall be sent before any action is filed.

6 "(g) Upon approval of the county commission, the  
7 county license inspector and his or her deputies employed  
8 under Section 40-12-10 shall have the same authority to issue  
9 citations against persons violating this section as county  
10 license inspectors have with regard to persons violating  
11 revenue laws as provided in Section 40-12-10. In addition, the  
12 county solid waste officer, as defined in subsection (b) of  
13 Section 22-27-3, shall have the same authority to issue  
14 citations against persons violating this section as solid  
15 waste officers have with regard to persons violating the Solid  
16 Wastes Disposal Act pursuant to subsection (b) of Section  
17 22-27-3.

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

23 "§23-5-6.

24 "If a ~~misdemeanor~~ littering is committed as set  
25 forth in Section 13A-7-29 or Section 32-5A-60 from a motor

1 vehicle, the driver of the vehicle shall be presumed to be the  
2 offender.

3 "§32-5-76.

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

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

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

24 "(c) (1) Whoever willfully and knowingly operates,  
25 owns, or causes to be operated on a public highway, road,



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

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

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

15 "§32-5A-60.

16 "(a) No person shall throw or deposit upon or  
17 alongside any highway, road ~~or,~~ street, or public right-of-way  
18 any ~~glass~~ bottle, glass, nails, tacks, wire, cans, cigarettes,  
19 cigars, containers of urine, or any other substance likely to  
20 injure any person, animal, or vehicle upon ~~such~~ or alongside  
21 the highway, road, street, or public right-of-way.

22 "(b) Any person who throws, drops, or permits to be  
23 ~~dropped or thrown~~ thrown or dropped, upon any highway any  
24 destructive or injurious material shall immediately remove the  
25 ~~same~~ material or cause it to be removed.

1           "(c) Any person removing a wrecked or damaged  
 2 vehicle from a highway shall remove any glass or other  
 3 injurious substance dropped upon the highway from ~~such~~ the  
 4 vehicle.

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

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

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

12           "(g) (1) Notwithstanding the provisions of Section  
 13 32-5A-266, any person violating ~~the provisions of~~ this section  
 14 shall be guilty of a Class ~~C~~ B misdemeanor ~~and upon conviction~~  
 15 ~~shall be fined not more than \$500.00,~~ pursuant to Section  
 16 13A-7-29, the criminal littering statute. ~~Any person violating~~  
 17 ~~subsection (d) of this section shall receive an assessment by~~  
 18 ~~the Alabama State Law Enforcement Agency of three points on~~  
 19 ~~his or her driver license.~~

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

22           "§33-6-10.

23           "~~The provisions of this~~ This chapter and rules,  
 24 ~~regulations and orders adopted hereunder~~ under this chapter  
 25 shall be enforced by the State Board of Health and the State

1 Department of Conservation and Natural Resources according to  
2 rules ~~and regulations hereunder~~ adopted by the board and  
3 department.

4 "(b) Any person may complain under oath to a  
5 magistrate, district attorney, or grand jury concerning a  
6 violation of ~~the provisions of~~ this chapter or of a rule ~~and~~  
7 ~~regulation promulgated thereunder~~ adopted under this chapter  
8 and if a warrant is issued by ~~said the~~ the magistrate or district  
9 attorney, or indictment returned by a grand jury, ~~said the~~ the  
10 charge shall be tried in court to which ~~said the~~ the warrant is  
11 returnable, and ~~said the~~ the warrant may be made returnable to a  
12 district court or to the circuit court and ~~said the~~ the courts  
13 shall have original and concurrent jurisdiction of ~~said the~~ the  
14 offense, or if an indictment is returned, the circuit court  
15 shall have jurisdiction of ~~said the~~ the offense. ~~In such cases~~  
16 ~~convicted defendants~~ Convicted persons may appeal as now  
17 provided by law. Whether criminal proceedings have been  
18 commenced or not, the state health officer ~~is authorized to~~  
19 may bring a civil action in the circuit court against the  
20 owner, operator, or person in charge of any vessel or  
21 watercraft to compel compliance with ~~the provisions of this~~  
22 chapter or the ~~rules and regulations promulgated thereunder~~  
23 adopted under this chapter, and ~~said the~~ the circuit court shall  
24 have jurisdiction of ~~said the~~ the case.

1           "(c) Any individual who discharges from any  
2 watercraft any sewage or litter into the waters of this state  
3 or any owner or operator of any watercraft who knowingly  
4 allows or permits ~~such~~ discharge in violation of ~~any provision~~  
5 ~~of~~ this chapter, or without a permit from the State Board of  
6 Health, when ~~such~~ a permit is required, or if any person ~~shall~~  
7 ~~violate~~ violates any rule, ~~regulation~~ or order ~~promulgated~~  
8 adopted under this chapter, ~~such~~ that person shall be guilty  
9 of a Class B misdemeanor and on conviction shall be punished  
10 pursuant to Section 13A-7-29, the criminal littering statute  
11 ~~by a fine of not less than \$10.00 nor more than \$1,000.00, or~~  
12 ~~by imprisonment at hard labor in the county jail for not over~~  
13 ~~12 months, or by both fine and imprisonment; and each such~~  
14 ~~discharge of sewage or litter shall constitute a separate~~  
15 ~~offense."~~

16           Section 2. Although this bill would have as its  
17 purpose or effect the requirement of a new or increased  
18 expenditure of local funds, the bill is excluded from further  
19 requirements and application under Amendment 621, now  
20 appearing as Section 111.05 of the Official Recompilation of  
21 the Constitution of Alabama of 1901, as amended, because the  
22 bill defines a new crime or amends the definition of an  
23 existing crime.

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

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 23-MAY-19, as amended.

Jeff Woodard  
Clerk

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Senate 31-MAY-19 Passed