

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

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8 SYNOPSIS: Existing law criminalizes littering and
9 provides penalties.

10 This bill would provide additional penalties
11 for criminal littering and include enhanced
12 penalties for littering of cigarettes, cigars,
13 containers of urine, restaurant food containers,
14 and other specified waste items.

15 Amendment 621 of the Constitution of Alabama
16 of 1901, now appearing as Section 111.05 of the
17 Official Recompilation of the Constitution of
18 Alabama of 1901, as amended, prohibits a general
19 law whose purpose or effect would be to require a
20 new or increased expenditure of local funds from
21 becoming effective with regard to a local
22 governmental entity without enactment by a 2/3 vote
23 unless: it comes within one of a number of
24 specified exceptions; it is approved by the
25 affected entity; or the Legislature appropriates
26 funds, or provides a local source of revenue, to
27 the entity for the purpose.

1 The purpose or effect of this bill would be
2 to require a new or increased expenditure of local
3 funds within the meaning of the amendment. However,
4 the bill does not require approval of a local
5 governmental entity or enactment by a 2/3 vote to
6 become effective because it comes within one of the
7 specified exceptions contained in the amendment.

8
9 A BILL
10 TO BE ENTITLED
11 AN ACT

12
13 Relating to littering; to amend Sections 13A-7-29,
14 23-5-6, 32-5-76, 32-5A-60, and 33-6-10, Code of Alabama 1975,
15 to provide additional penalties for criminal littering to
16 include enhanced penalties for littering of cigarettes,
17 cigars, containers of urine, restaurant food containers, and
18 other specified waste items; to include within the enhanced
19 penalties increased fines, mandatory community service
20 requirements, and assessments of driver license points when
21 littering is committed from a motor vehicle; and in connection
22 therewith would have as its purpose or effect the requirement
23 of a new or increased expenditure of local funds within the
24 meaning of Amendment 621 of the Constitution of Alabama of
25 1901, now appearing as Section 111.05 of the Official
26 Recompilation of the Constitution of Alabama of 1901, as
27 amended.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Sections 13A-7-29, 23-5-6, 32-5-76,
3 32-5A-60, and 33-6-10, Code of Alabama 1975, are amended to
4 read as follows:

5 "§13A-7-29.

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

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

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

25 "(3) Discharges sewage, oil products, or litter ~~from~~
26 ~~a watercraft vessel of more than 25 feet in length into a~~

1 river, inland lake, or stream within the state or within ~~three~~
2 ~~miles of the shoreline~~ territorial waters of the state.

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

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

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

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

4 "(d) (1) Criminal littering is a Class ~~C~~ B
5 misdemeanor. The ~~minimum~~ fine for the first conviction shall
6 be ~~two hundred fifty dollars (\$250), and the fine up to five~~
7 hundred dollars (\$500). The punishment for the second and any
8 subsequent conviction shall be ~~five hundred dollars (\$500) for~~
9 ~~each conviction~~ include either a fine of up to one thousand
10 dollars (\$1,000) and up to 100 hours of community service in
11 the form of picking up litter along highways, roads, streets,
12 public rights-of-way, public sidewalks, public walkways, or
13 public waterways, or by a fine of not less than two thousand
14 dollars (\$2,000) and not more than three thousand dollars
15 (\$3,000).

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

20 "a. Cigarettes or cigars.

21 "b. Containers of urine.

22 "c. Food containers.

23 "(e) ~~The~~ Fifty percent of the fine from ~~such a~~
24 conviction under this section shall be ~~awarded and~~ distributed
25 by the court to the ~~municipal, and/or~~ State General Fund and
26 50 percent to the municipality or county, and/or State General
27 Fund, or both, following a determination by the court of whose

1 law enforcement agencies or departments have been a
2 participant in the arrest or citation resulting in the fine.
3 ~~Such~~ The award and distribution to the county and municipality
4 shall be made on the basis of the percentage as determined by
5 the court, which the respective agency or department
6 contributed to the police work resulting in the arrest, and
7 shall be spent by the governing body on law and litter
8 enforcement purposes only. Litter enforcement may include, but
9 not be limited to, anti-littering education, publication and
10 distribution of related educational materials, and
11 anti-littering advertising.

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

1 and presents information or evidence to the designee of the
2 governing body, the designee shall review the information or
3 evidence presented and make a determination as to whether or
4 not an action should be brought against the person for
5 criminal littering. The designee shall provide written notice
6 to the person of its determination, and if the intent is to
7 proceed with an action for criminal littering, the notice
8 shall be sent before any action is filed.

9 "(g) Upon approval of the county commission, the
10 county license inspector and his or her deputies employed
11 under Section 40-12-10 shall have the same authority to issue
12 citations against persons violating this section as county
13 license inspectors have with regard to persons violating
14 revenue laws as provided in Section 40-12-10. In addition, the
15 county solid waste officer, as defined in subsection (b) of
16 Section 22-27-3, shall have the same authority to issue
17 citations against persons violating this section as solid
18 waste officers have with regard to persons violating the Solid
19 Wastes Disposal Act pursuant to subsection (b) of Section
20 22-27-3.

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

26 "§23-5-6.

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

5 "§32-5-76.

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

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

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

26 "(c) (1) Whoever willfully and knowingly operates,
27 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.

26 "(c) Any person removing a wrecked or damaged
27 vehicle from a highway shall remove any glass or other

1 injurious substance dropped upon the highway from ~~such~~ the
2 vehicle.

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

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

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

10 "(g) (1) Notwithstanding the provisions of Section
11 32-5A-266, any person violating ~~the provisions of~~ this section
12 shall be guilty of a Class C misdemeanor ~~and upon conviction~~
13 ~~shall be fined not more than \$500.00,~~ pursuant to Section
14 13A-7-29, the criminal littering statute. Any person violating
15 subsection (d) of this section shall receive an assessment by
16 the Alabama State Law Enforcement Agency of three points on
17 his or her driver license.

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

20 "§33-6-10.

21 "(a) ~~The provisions of this~~ This chapter and rules,
22 ~~regulations and orders adopted hereunder~~ under this chapter
23 shall be enforced by the State Board of Health and the State
24 Department of Conservation and Natural Resources according to
25 rules ~~and regulations hereunder~~ adopted by the board and
26 department.

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

22 "(c) Any individual who discharges from any
23 watercraft any sewage or litter into the waters of this state
24 or any owner or operator of any watercraft who knowingly
25 allows or permits ~~such~~ discharge in violation of ~~any provision~~
26 ~~of~~ this chapter, or without a permit from the State Board of
27 Health, when ~~such~~ a permit is required, or if any person ~~shall~~

1 ~~violate~~ violates any rule, ~~regulation~~ or order ~~promulgated~~
2 adopted under this chapter, ~~such that~~ person shall be guilty
3 of a Class B misdemeanor and on conviction shall be punished
4 pursuant to Section 13A-7-29, the criminal littering statute
5 ~~by a fine of not less than \$10.00 nor more than \$1,000.00, or~~
6 ~~by imprisonment at hard labor in the county jail for not over~~
7 ~~12 months, or by both fine and imprisonment; and each such~~
8 ~~discharge of sewage or litter shall constitute a separate~~
9 ~~offense."~~

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

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