

1 **§22-15A-4. Unlawful disposal of litter; civil and criminal**
2 **penalty; litter control fund; evidence; notice**
3 **violations; litter receptacle placement; penalty;**
4 **duty to enforce violations.**

5 (a) (1) No person ~~shall~~ may place, deposit, dump, throw or
6 cause to be placed, deposited, dumped or thrown any litter as
7 defined in section two of this article, in or upon any public or
8 private highway, road, street or alley; any private property; any
9 public property; or the waters of the state or within one hundred
10 feet of the waters of this state, except in a proper litter or
11 other solid waste receptacle.

12 (2) It is unlawful for any person to place, deposit, dump,
13 throw or cause to be placed, deposited, dumped or thrown any litter
14 from a motor vehicle or other conveyance or to perform any act
15 which constitutes a violation of the motor vehicle laws contained
16 in section fourteen, article fourteen, chapter seventeen-c of this
17 code.

18 (3) If any litter is placed, deposited, dumped, discharged,
19 thrown or caused to be placed, deposited, dumped or thrown from a
20 motor vehicle, boat, airplane or other conveyance, it is prima
21 facie evidence that the owner or the operator of the motor vehicle,
22 boat, airplane or other conveyance intended to violate the
23 provisions of this section.

1 (4) Any person who violates the provisions of this section by
2 placing, depositing, dumping or throwing or causing to be placed,
3 deposited, dumped or thrown any litter, not collected for
4 commercial purposes, in an amount not exceeding one hundred pounds
5 in weight or twenty-seven cubic feet in size, is guilty of a
6 misdemeanor. Upon conviction, he or she ~~is subject to a fine of~~
7 may be fined not less than \$100 nor more than \$1,000, or in the
8 discretion of the court, may be sentenced to perform community
9 service by cleaning up litter from any public highway, road,
10 street, alley or any other public park or public property, or
11 waters of the state, as designated by the court, for not less than
12 eight nor more than sixteen hours, or both.

13 (5) Any person who violates the provisions of this section by
14 placing, depositing, dumping or throwing or causing to be placed,
15 deposited, dumped or thrown any litter, not collected for
16 commercial purposes, in an amount greater than one hundred pounds
17 in weight or twenty-seven cubic feet in size, but less than five
18 hundred pounds in weight or two hundred sixteen cubic feet in size
19 is guilty of a misdemeanor. Upon conviction he or she ~~is subject~~
20 ~~to a fine of~~ may be fined not less than \$1,000 nor more than
21 \$2,000, or in the discretion of the court, may be sentenced to
22 perform community service by cleaning up litter from any public
23 highway, road, street, alley or any other public park or public
24 property, or waters of the state, as designated by the court, for

1 not less than sixteen nor more than thirty-two hours, or both.

2 (6) Any person who violates the provisions of this section by
3 placing, depositing, dumping or throwing or causing to be placed,
4 deposited, dumped or thrown any litter in an amount greater than
5 five hundred pounds in weight or two hundred sixteen cubic feet in
6 size or any amount which had been collected for commercial purposes
7 is guilty of a misdemeanor. Upon conviction, the person ~~is subject~~
8 ~~to a fine~~ may be fined not less than \$2,500 ~~or not~~ nor more than
9 \$25,000 or ~~confinement~~ confined in jail for not more than one year,
10 or both fined and confined. In addition, the violator may be
11 guilty of creating or contributing to an open dump as defined in
12 section two, article fifteen, chapter twenty-two of this code and
13 subject to the enforcement provisions of section fifteen of ~~said~~
14 that article.

15 (7) Any person convicted of a second or subsequent violation
16 of this section is subject to double the authorized range of fines
17 and community service for the subsection violated.

18 (8) The sentence of litter clean up shall be verified by
19 environmental inspectors from the Department of Environmental
20 Protection. Any defendant receiving the sentence of litter clean
21 up shall provide, within a time to be set by the court, written
22 acknowledgment from an environmental inspector that the sentence
23 has been completed and the litter has been disposed of lawfully.

24 (9) Any person who has been found by the court to have

1 willfully failed to comply with the terms of a litter clean up
2 sentence imposed by the court pursuant to this section is subject
3 to, at the discretion of the court, double the amount of the
4 original fines and community service penalties originally ordered
5 by the court.

6 (10) All law-enforcement agencies, officers and environmental
7 inspectors shall enforce compliance with this section within the
8 limits of each agency's statutory authority.

9 (11) No portion of this section restricts an owner, renter or
10 lessee in the lawful use of his or her own private property or
11 rented or leased property or to prohibit the disposal of any
12 industrial and other wastes into waters of this state in a manner
13 consistent with the provisions of article eleven, chapter
14 twenty-two of this code. But if any owner, renter or lessee,
15 private or otherwise, knowingly permits any such materials or
16 substances to be placed, deposited, dumped or thrown in such
17 location that high water or normal drainage conditions will cause
18 any such materials or substances to wash into any waters of the
19 state, it is prima facie evidence that the owner, renter or lessee
20 intended to violate the provisions of this section: *Provided*, That
21 if a landowner, renter or lessee, private or otherwise, reports any
22 placing, depositing, dumping or throwing of these substances or
23 materials upon his or her property to the prosecuting attorney,
24 county commission, the Division of Natural Resources or the

1 Department of Environmental Protection, the landowner, renter or
2 lessee will be presumed to not have knowingly permitted the
3 placing, depositing, dumping or throwing of the materials or
4 substances.

5 (b) Any indication of ownership found in litter shall be prima
6 facie evidence that the person identified violated the provisions
7 of this section: *Provided*, That no inference may be drawn solely
8 from the presence of any logo, trademark, trade name or other
9 similar mass reproduced things of identifying character appearing
10 on the found litter.

11 (c) Every person who is convicted of or pleads guilty to
12 disposing of litter in violation of subsection (a) of this section
13 shall pay a civil penalty in the sum of not less than \$200 nor more
14 than \$1,000 as costs for clean up, investigation and prosecution of
15 the case, in addition to any other court costs that the court is
16 otherwise required by law to impose upon a convicted person.

17 The clerk of the circuit court, magistrate court or municipal
18 court in which these additional costs are imposed shall, on or
19 before the last day of each month, transmit fifty percent of a
20 civil penalty received pursuant to this section to the State
21 Treasurer for deposit in the State Treasury to the credit of a
22 special revenue fund to be known as the Litter Control Fund which
23 is hereby continued and transferred to the Department of
24 Environmental Protection. Expenditures for purposes set forth in

1 this section are not authorized from collections but are to be made
2 only in accordance with appropriation and in accordance with the
3 provisions of article three, chapter twelve of this code and upon
4 fulfillment of the provisions set forth in article two, chapter
5 five-a of this code. Amounts collected which are found from time
6 to time to exceed the funds needed for the purposes set forth in
7 this article may be transferred to other accounts or funds and
8 designated for other purposes by appropriation of the Legislature.

9 (d) The remaining fifty percent of each civil penalty
10 collected pursuant to this section shall be transmitted to the
11 county or regional solid waste authority in the county where the
12 litter violation occurred. Moneys shall be expended by the county
13 or regional solid waste authority for the purpose of litter
14 prevention, clean up and enforcement. The county commission shall
15 cooperate with the county or regional solid waste authority serving
16 the respective county to develop a coordinated litter control
17 program pursuant to section eight, article four, chapter
18 twenty-two-c of this code.

19 (e) The Commissioner of the Division of Motor Vehicles, upon
20 registering a motor vehicle or issuing an operator's or chauffeur's
21 license, shall issue to the owner or licensee, as the case may be,
22 a summary of this section and section fourteen, article fourteen,
23 chapter seventeen-c of the code.

24 (f) The Commissioner of the Division of Highways shall cause

1 appropriate signs to be placed at the state boundary on each
2 primary and secondary road, and at other locations throughout the
3 state, informing those entering the state of the maximum penalty
4 provided for disposing of litter in violation of subsection (a) of
5 this section.

6 (g) Any state agency or political subdivision that owns,
7 operates or otherwise controls any public area as may be designated
8 by the secretary by rule promulgated pursuant to subdivision (8),
9 subsection (a), section three of this article shall procure and
10 place litter receptacles at its own expense upon its premises and
11 shall remove and dispose of litter collected in the litter
12 receptacles. After receiving two written warnings from any
13 law-enforcement officer or officers to comply with this subsection
14 or the rules of the secretary, any state agency or political
15 subdivision that fails to place and maintain the litter receptacles
16 upon its premises in violation of this subsection or the rules of
17 the secretary shall be fined \$30 per day of the violation.

18 (h) The secretary shall propose rules for legislative approval
19 in accordance with the provisions of article three, chapter
20 twenty-nine-a of this code to implement procedures under which
21 county commissions and municipal governments are granted a limited
22 exemption to the provisions of this article to undertake timely and
23 efficient removal or burning of litter, trash and debris resulting
24 from storms and other weather related events causing extensive

1 property damage.

NOTE: The purpose of this bill is to provide a limited exemption to litter laws to allow county and municipal governments to undertake timely and efficient removal or burning of litter, trash and debris resulting from storms and other weather related events causing extensive property damage.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.