

1 HB211
2 115558-1
3 By Representative Ward
4 RFD: Judiciary
5 First Read: 12-JAN-10

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8 SYNOPSIS: Under existing law, the crime of criminal
9 littering may be enforced by a law enforcement
10 officer.

11 This bill would authorize enforcement of
12 criminal littering by the county solid waste
13 officer and, upon approval of the county
14 commission, by the county license inspector.

15 This bill would delete the requirement that
16 there be an accumulation of certain items to create
17 a presumption of littering.

18 The bill would also further provide for the
19 distribution of fines for litter enforcement.
20

21 A BILL
22 TO BE ENTITLED
23 AN ACT
24

25 To amend Section 13A-7-29, Code of Alabama 1975,
26 relating to the crime of criminal littering; to further
27 provide for what constitutes a rebuttable presumption of

1 littering; to further provide for the distribution of fines;
2 and to provide for the enforcement of criminal littering by
3 the county license inspector and county solid waste officer.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Section 13A-7-29, Code of Alabama 1975,
6 is amended to read as follows:

7 "§13A-7-29.

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

10 "(1) Knowingly deposits in any manner litter on any
11 public or private property or in any public or private waters,
12 having no permission to do so. For purposes of this
13 subdivision, any series of items found in ~~an accumulation of~~
14 the garbage, trash, or other discarded material including, but
15 not limited to, bank statements, utility bills, bank card
16 bills, and other financial documents, clearly bearing the name
17 of a person shall constitute a rebuttable presumption that the
18 person whose name appears thereon knowingly deposited the
19 litter. Advertising, marketing, and campaign materials and
20 literature shall not be sufficient to constitute a rebuttable
21 presumption of criminal littering under this subsection.

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

1 "(3) Discharges sewage, oil products, or litter from
2 a watercraft vessel of more than 25 feet in length into a
3 river, inland lake, or stream within the state or within three
4 miles of the shoreline of the state.

5 "(4) a. Drops or permits to be dropped or thrown
6 upon any highway any destructive or injurious material and
7 does not immediately remove the same or cause it to be
8 removed; or

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

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

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

1 "(d) Criminal littering is a Class C misdemeanor.
2 The minimum fine for the first conviction shall be two hundred
3 fifty dollars (\$250), and the fine for the second and any
4 subsequent conviction shall be five hundred dollars (\$500) for
5 each conviction.

6 "(e) The fine from such conviction shall be awarded
7 and distributed by the court to the municipal, and/or county,
8 and/or State General Fund, following a determination by the
9 court of whose law enforcement agencies or departments have
10 been a participant in the arrest or citation resulting in the
11 fine. Such award and distribution shall be made on the basis
12 of the percentage as determined by the court, which the
13 respective agency or department contributed to the police work
14 resulting in the arrest, and shall be spent by the governing
15 body on law and litter enforcement purposes only.

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

1 presumption to the designee of the governing body within 15
2 days from the date of the notice, an action for criminal
3 littering may be filed against him or her in the appropriate
4 court. If the person responds to the notice and presents
5 information or evidence to the designee of the governing body,
6 the designee shall review the information or evidence
7 presented and make a determination as to whether or not an
8 action should be brought against the person for criminal
9 littering. The designee shall provide written notice to the
10 person of its determination, and if the intent is to proceed
11 with an action for criminal littering, the notice shall be
12 sent before any action is filed.

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

24 "(h) Nothing herein shall authorize a county license
25 inspector or solid waste officer to take any person into
26 custody pursuant to this section unless the inspector or

1 officer is a law enforcement officer employed by a law
2 enforcement agency as defined in Section 36-21-40."

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