

1 SB195  
2 115558-3  
3 By Senator Little (T)  
4 RFD: Judiciary  
5 First Read: 12-JAN-10

1 SB195

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4 ENROLLED, An Act,

5 To amend Section 13A-7-29, Code of Alabama 1975,  
6 relating to the crime of criminal littering; to further  
7 provide for what constitutes a rebuttable presumption of  
8 littering; to further provide for the distribution of fines;  
9 and to provide for the enforcement of criminal littering by  
10 the county license inspector and county solid waste officer.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

14 "§13A-7-29.

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

17 "(1) Knowingly deposits in any manner litter on any  
18 public or private property or in any public or private waters,  
19 having no permission to do so. For purposes of this  
20 subdivision, any series of items found in the garbage, trash,  
21 or other discarded material including, but not limited to,  
22 bank statements, utility bills, bank card bills, and other  
23 financial documents, clearly bearing the name of a person  
24 shall constitute a rebuttable presumption that the person  
25 whose name appears thereon knowingly deposited the litter.

1 Advertising, marketing, and campaign materials and literature  
2 shall not be sufficient to constitute a rebuttable presumption  
3 of criminal littering under this subsection.

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

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

13 "(4) a. Drops or permits to be dropped or thrown  
14 upon any highway any destructive or injurious material and  
15 does not immediately remove the same or cause it to be  
16 removed; or

17 "b. Removes a wrecked or damaged vehicle from a  
18 highway and does not remove glass or other injurious substance  
19 dropped upon the highway from such vehicle.

20 "(b) "Litter" means rubbish, refuse, waste material,  
21 garbage, dead animals or fowl, offal, paper, glass, cans,  
22 bottles, trash, scrap metal, debris, or any foreign substance  
23 of whatever kind and description, and whether or not it is of  
24 value. Any agricultural product in its natural state that is  
25 unintentionally deposited on a public highway, road, street,

1 or public right-of-way shall not be deemed litter for purposes  
2 of this section or Section 32-5-76. Any other law or ordinance  
3 to the contrary notwithstanding, the unintentional depositing  
4 of an agricultural product in its natural state on a public  
5 highway, road, street, or right-of-way shall not constitute  
6 unlawful littering or any similarly prohibited activity.

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

10 "(d) Criminal littering is a Class C misdemeanor.  
11 The minimum fine for the first conviction shall be two hundred  
12 fifty dollars (\$250), and the fine for the second and any  
13 subsequent conviction shall be five hundred dollars (\$500) for  
14 each conviction.

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

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

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

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

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

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB195

Senate 16-FEB-10

I hereby certify that the within Act originated in and passed the Senate.

McDowell Lee  
Secretary

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House of Representatives  
Passed: 11-MAR-10

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By: Senator Little (T)