

House Bill 1320 (COMMITTEE SUBSTITUTE) (AM)

By: Representatives Smith of the 70<sup>th</sup>, Burkhalter of the 50<sup>th</sup>, Ralston of the 7<sup>th</sup>, Willard of the 49<sup>th</sup>, Rice of the 51<sup>st</sup>, and others

A BILL TO BE ENTITLED

AN ACT

1 To extensively revise various provisions relating to littering and related environmental  
 2 offenses; to provide a short title; to amend Article 2 of Chapter 7 of Title 16 of the Official  
 3 Code of Georgia Annotated, relating to criminal trespass and damage to property, so as to  
 4 change certain provisions relating to littering public and private property; to change certain  
 5 provisions relating to waste control; to provide for impoundment of vehicles involved in  
 6 certain littering offenses; to amend Article 1 of Chapter 2 of Title 21 of the Official Code of  
 7 Georgia Annotated, relating to general provisions relative to elections and primaries  
 8 generally, so as to change certain provisions relating to prohibited placement of campaign  
 9 posters, signs, and advertisements; to amend Chapter 8 of Title 12 of the Official Code of  
 10 Georgia Annotated, relating to waste management, so as to change certain provisions relating  
 11 to definitions relative to solid waste; to provide for reports by the Department of Community  
 12 Affairs concerning prevention and abatement of litter; to change certain provisions relating  
 13 to definitions relative to hazardous waste management; to change certain provisions relating  
 14 to definitions relative to hazardous site response; to amend of Title 15 of the Official Code  
 15 of Georgia Annotated, relating to courts, so as to provide for jurisdiction of certain courts  
 16 over littering offenses; to amend Title 17 of the Official Code of Georgia Annotated, relating  
 17 to criminal procedure, so as to provide for trial of certain littering offenses upon a summons  
 18 or citation without an accusation; to change certain provisions relating to acceptance of cash  
 19 bonds in lieu of statutory bond or recognizance by officers or officials authorized to enforce  
 20 the "Litter Control Law"; to amend Chapter 6 of Title 32 of the Official Code of Georgia  
 21 Annotated, relating to regulation of maintenance and use of public roads generally, so as to  
 22 change certain provisions relating to securing loads on vehicles; to change certain provisions  
 23 relating to erection, placement, or maintenance of an unlawful or unauthorized structure and  
 24 removal thereof; to change certain provisions relating to littering highways; to amend Article  
 25 1 of Chapter 32 of Title 36 of the Official Code of Georgia Annotated, relating to general  
 26 provisions relative to municipal courts, so as to provide for jurisdiction over littering  
 27 offenses; to amend Title 40 of the Official Code of Georgia Annotated, relating to motor  
 28 vehicles and traffic, so as to change certain provisions relating to suspension or revocation

1 of drivers' licenses of habitually negligent or dangerous drivers and the points system; to  
 2 provide for editorial revisions; to repeal conflicting laws; and for other purposes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

4 **PART I**

5 **SECTION 1-1.**

6 This Act shall be known and may be cited as the "Comprehensive Litter Prevention and  
 7 Abatement Act of 2006."

8 **PART II**

9 **SECTION 2-1.**

10 Article 2 of Chapter 7 of Title 16 of the Official Code of Georgia Annotated, relating to  
 11 criminal trespass and damage to property, is amended by striking Part 2, relating to littering  
 12 public and private property, and inserting in lieu thereof the following:

13 "Part 2

14 16-7-40.

15 ~~This part shall be known and may be cited as the 'Litter Control Law.'~~ Reserved.

16 16-7-41.

17 ~~Repeated:~~ Reserved.

18 16-7-42.

19 As used in this part, the term:

20 (1) 'Litter' means ~~all discarded sand, gravel, slag, brickbats, rubbish, waste material, tin~~  
 21 ~~cans, refuse, garbage, trash, debris, dead animals, or other discarded materials of every~~  
 22 ~~kind and description which are not waste as such term is defined in paragraph (6) of Code~~  
 23 ~~Section 16-7-51~~ any discarded or abandoned:

24 (A) Refuse, rubbish, junk, or other waste material; or

25 (B) Dead animals that are not subject to the provisions of Code Section 4-5-4.

26 (2) 'Public or private property' means the right of way of any road or highway; any body  
 27 of water or watercourse or the shores or beaches thereof; any park, playground, building,

1 refuge, or conservation or recreation area; ~~and residential or farm properties, timberlands,~~  
 2 or forests; or any commercial or industrial property.

3 16-7-43.

4 (a) It shall be unlawful for any person or persons to dump, deposit, throw, or leave or to  
 5 cause or permit the dumping, depositing, placing, throwing, or leaving of litter on any  
 6 public or private property in this state or any waters in this state, unless:

7 (1) The ~~property~~ area is designated by the state or by any of its agencies or political  
 8 subdivisions for the disposal of litter and the person is authorized by the proper public  
 9 authority to so use such ~~property~~ area;

10 (2) The litter is placed into a nondisposable litter receptacle or container ~~installed on~~  
 11 ~~such property~~ designed for the temporary storage of litter and located in an area  
 12 designated by the owner or tenant in lawful possession of the property; or

13 (3) The person is the owner or tenant in lawful possession of such property or has first  
 14 obtained consent of the owner or tenant in lawful possession or unless the act is done  
 15 under the personal direction of the owner or tenant, all in a manner consistent with the  
 16 public welfare.

17 (b)(1) Any person who violates subsection (a) of this Code section shall be guilty of a  
 18 misdemeanor, ~~and, upon conviction thereof, shall be punished as follows:~~

19 ~~(1) By a fine of not less than \$200.00 nor more than \$1,200.00; and~~

20 (2) In addition to the punishment provided under paragraph (1) of this subsection:

21 ~~(2)(A)~~ (A) In the sound discretion of the court, the person may be directed to pick up and  
 22 remove from any public street or highway or public right of way for a distance not to  
 23 exceed one mile any litter the person has deposited and any and all litter deposited  
 24 thereon by anyone else prior to the date of execution of sentence; or

25 (B) In the sound discretion of the judge of the court, the person may be directed to pick  
 26 up and remove from any public beach, public park, private right of way, or, with the  
 27 prior permission of the legal owner or tenant in lawful possession of such property, any  
 28 private property upon which it can be established by competent evidence that the person  
 29 has deposited litter, any and all litter deposited thereon by anyone prior to the date of  
 30 execution of sentence.

31 (c) The court may publish the names of persons convicted of violating subsection (a) of this  
 32 Code section.

33 (d) Any county, municipality, consolidated government, or law enforcement agency  
 34 thereof of this state which is empowered by Code Section 16-7-45 or other law to enforce  
 35 the provisions of this Code section or local littering ordinances may, in its discretion,  
 36 appoint any person who is a citizen of the United States, is of good moral character, and

1 has not previously been convicted of a felony to enforce the provisions of this Code section  
 2 or local littering ordinances within the county, ~~or municipality,~~ or consolidated government  
 3 in which the appointing agency exercises jurisdiction. Each person appointed pursuant to  
 4 this Code section shall take and subscribe an oath of office as prescribed by the appointing  
 5 authority. Any person appointed and sworn pursuant to this subsection shall be authorized  
 6 to enforce the provisions of this Code section or local littering ordinances in the same  
 7 manner as any employee or law enforcement officer of this state or any county, ~~or~~  
 8 municipality, or consolidated government of this state subject to the limitations provided  
 9 in subsections (e) and (f) of this Code section.

10 (e) No person appointed pursuant to subsection (d) of this Code section shall be deemed  
 11 a peace officer under the laws of this state or:

12 (1) Be deemed to be an employee of or receive any compensation from the state, county,  
 13 municipality, consolidated government, or appointing law enforcement agency;

14 (2) Be required to complete any training or be certified pursuant to the requirements of  
 15 Chapter 8 of Title 35;

16 (3) Have the power or duty to enforce any ~~other~~ traffic or other criminal laws of the state,  
 17 county, ~~or~~ municipality, or consolidated government;

18 (4) Have the power to possess and carry firearms and other weapons for the purpose of  
 19 enforcing the littering laws; or

20 (5) Be entitled to any indemnification from the state, county, ~~or~~ municipality, or  
 21 consolidated government for any injury or property damage sustained by such person as  
 22 a result of attempting to enforce the littering laws of this state or any local government.

23 (f) Notwithstanding any law to the contrary, neither the state nor any county, municipality,  
 24 or ~~other political subdivision~~ consolidated government of this state or any department,  
 25 agency, board, or officer of this state or any county, municipality, ~~or political subdivision~~  
 26 consolidated government of this state shall be liable or accountable for or on account of any  
 27 act or omission of any person appointed pursuant to this Code section in connection with  
 28 such person's enforcement of the provisions of this Code section or local littering  
 29 ordinances.

30 (g) It shall be unlawful for any person willfully to obstruct, resist, impede, or interfere with  
 31 any person appointed pursuant to this Code section in connection with such person's  
 32 enforcement of this Code section or local littering ordinances or to retaliate or discriminate  
 33 in any manner against such person as a reprisal for any act or omission of such person.  
 34 Any violation of this subsection shall be punishable as a misdemeanor.

1 16-7-44.

2 (a) Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle,  
3 boat, airplane, or other conveyance in violation of Code Section 16-7-43, ~~it shall be~~  
4 ~~prima-facie evidence~~ the trier of fact may in its discretion and in consideration of the  
5 totality of the circumstances infer that the operator of the conveyance has violated this part.

6 (b) Except as provided in subsection (a) of this Code section, whenever any litter which  
7 is dumped, deposited, thrown, or left on public or private property in violation of Code  
8 Section 16-7-43 is discovered to contain any article or articles, including but not limited  
9 to letters, bills, publications, or other writings which display the name of a person thereon  
10 in such a manner as to indicate that the article belongs or belonged to such person, ~~it shall~~  
11 ~~be a rebuttable presumption~~ the trier of fact may in its discretion and in consideration of  
12 the totality of the circumstances infer that such person has violated this part.

13 16-7-45.

14 All law enforcement agencies, officers, and officials of this state or any political  
15 subdivision thereof or any enforcement agency, officer, or any official of any commission  
16 or authority of this state or any political subdivision thereof is authorized, empowered, and  
17 directed to enforce compliance with this part.

18 16-7-46.

19 All public authorities and agencies having supervision of properties of this state are  
20 authorized, empowered, and instructed to establish and maintain receptacles for the deposit  
21 of litter at appropriate locations where the property is frequented by the public, to post  
22 signs directing persons to the receptacles and serving notice of the provisions of this part,  
23 and to otherwise publicize the availability of litter receptacles and requirements of this part.

24 16-7-47.

25 (a) As used in this Code section, the term 'household garbage' means animal, vegetable,  
26 and fruit refuse matter and other refuse matter ordinarily generated as by-products of a  
27 household or restaurant, such as tin cans, bottles, paper, cardboard, plastics, and wrapping  
28 or packaging materials.

29 (b) The governing authority of each county, municipality, or consolidated government of  
30 this state which provides containers for the dumping of trash or garbage therein shall be  
31 authorized to designate any or all such containers as being suitable for the dumping therein  
32 of household garbage only. If a container is clearly marked 'household garbage only,' it  
33 shall be unlawful for any person to dump any refuse or other material into the container  
34 other than household garbage.

1 (c) It shall be unlawful for any person to set fire to the contents of, indiscriminately scatter  
 2 or disperse the contents of, or otherwise vandalize any containers provided by any county,  
 3 municipality, or consolidated government for the dumping of trash or garbage.

4 (d) Any person who violates subsection (b) or (c) of this Code section shall be guilty of  
 5 a misdemeanor.

6 16-7-48.

7 (a) Nothing in this part shall limit the authority of any state agency, county, municipality,  
 8 or consolidated government to enforce any other laws, rules, or regulations relating to litter.

9 (b) Nothing within this part shall be construed to prohibit the adoption of local ordinances  
 10 regulating and controlling litter within the corporate limits of a municipality jurisdiction  
 11 of any county, municipality, or consolidated government. Violation of such ordinances  
 12 shall be punished as provided in the municipal charter or local ordinances."

### 13 SECTION 2-2.

14 Article 2 of Chapter 7 of Title 16 of the Official Code of Georgia Annotated, relating to  
 15 criminal trespass and damage to property, is amended by striking Part 3, relating to waste  
 16 control, and inserting in lieu thereof the following:

#### 17 "Part 3

18 16-7-50.

19 ~~This part shall be known and may be cited as the 'Waste Control Law.'~~ Reserved.

20 16-7-51.

21 As used in this part, the term:

22 (1) 'Biomedical waste' means that term as defined in paragraph (1.1) of Code Section  
 23 12-8-22 ~~on January 1, 1993.~~

24 (2) 'Commercial purpose' means for the purpose of economic gain.

25 (3) 'Dump' means to throw, discard, place, deposit, discharge, burn, or dispose of a  
 26 substance.

27 ~~(6)(4) 'Egregious litter'~~ 'Waste' means all ~~discarded substances and materials whatsoever~~  
 28 litter, as such term is defined in paragraph (1) of Code Section 16-7-42, exceeding ten  
 29 pounds in weight or 15 cubic feet in volume; ~~or any such discarded or abandoned~~  
 30 substance in any weight or volume if biomedical waste, hazardous waste, or a hazardous  
 31 substance; ~~or, or any such substance or material dumped for commercial purposes. Such~~  
 32 ~~term includes, without limitation, sand; gravel; slag; brickbats; rubbish; waste material;~~  
 33 ~~tin cans; refuse; garbage; trash; debris; dead animals; bottles; boxes; containers; papers;~~

1 ~~tobacco products; tires; appliances; mechanical equipment or parts; building or~~  
 2 ~~construction materials; tools; machinery; wood; motor vehicles and motor vehicle parts;~~  
 3 ~~vessels; aircraft equipment; waste oil; batteries; antifreeze; sludge from a waste-water~~  
 4 ~~treatment facility; water supply treatment plant, or air pollution control facility; air~~  
 5 ~~contaminants from any source or facility; and any other discarded material or substance~~  
 6 ~~of every kind and description resulting from domestic, industrial, commercial, mining,~~  
 7 ~~or governmental operations.~~

8 ~~(4)~~(5) 'Hazardous substance' means that term as defined in paragraph (4) of Code Section  
 9 12-8-92 on January 1, 1993.

10 ~~(5)~~(6) 'Hazardous waste' means that term as defined in paragraph (10) of Code Section  
 11 12-8-62 on January 1, 1993.

12 16-7-52.

13 It shall be unlawful for any person to dump ~~waste~~ egregious litter unless authorized to do  
 14 so by law or by a duly issued permit:

15 (1) In or on any public highway, road, street, alley, or thoroughfare, including any  
 16 portion of the right of way thereof, or on any other public lands except in containers or  
 17 areas lawfully provided for such dumping;

18 (2) In or on any fresh-water lake, river, canal, or stream or tidal or coastal water of the  
 19 state; or

20 (3) In or on any private property, unless prior consent of the owner has been given and  
 21 unless such dumping will not adversely affect the public health and is not in violation of  
 22 any other state law, rule, or regulation.

23 16-7-53.

24 (a) Any person who dumps ~~waste~~ egregious litter in violation of Code Section 16-7-52 in  
 25 an amount not exceeding 500 pounds in weight or 100 cubic feet in volume which is not  
 26 biomedical waste, hazardous waste, or a hazardous substance and not for commercial  
 27 purposes shall be guilty of a misdemeanor of a high and aggravated nature. For purposes  
 28 of this subsection, each day a continuing violation occurs shall constitute a separate  
 29 violation.

30 (b) Any person who dumps ~~waste~~ egregious litter in violation of Code Section 16-7-52 in  
 31 an amount exceeding 500 pounds in weight or 100 cubic feet in volume which is not  
 32 biomedical waste, hazardous waste, or a hazardous substance and not for commercial  
 33 purposes shall upon the first offense be guilty of a misdemeanor of a high and aggravated  
 34 nature ~~and shall upon~~. Upon the second and each subsequent offense such person shall be  
 35 guilty of a felony and, upon conviction thereof, shall be fined not more than \$25,000.00 for  
 36 each violation or imprisoned for not more than ~~two~~ five years, or both; provided, however,

1 that the portion of any term of imprisonment exceeding two years shall be probated  
 2 conditioned upon payment of a fine imposed under this subsection. For purposes of this  
 3 subsection, each day a continuing violation occurs shall constitute a separate violation.

4 (c) Any person who dumps ~~waste~~ egregious litter in violation of Code Section 16-7-52 in  
 5 any quantity if the ~~waste~~ substance is biomedical waste, hazardous waste, or a hazardous  
 6 substance or if the dumping is for commercial purposes shall be guilty of a felony and,  
 7 upon conviction thereof, shall be fined not more than \$25,000.00 for each violation or  
 8 imprisoned for not more than ~~two~~ five years, or both; provided, however, that the portion  
 9 of any term of imprisonment exceeding two years shall be probated conditioned upon  
 10 payment of a fine imposed under this subsection. For purposes of this subsection, each day  
 11 a continuing violation occurs shall constitute a separate violation.

12 (d) In addition to the penalties provided in subsections (a) and (b) of this Code section, the  
 13 court may order the violator to remove or render harmless any ~~waste~~ egregious litter  
 14 dumped in violation of Code Section 16-7-52, repair or restore property damaged by or pay  
 15 damages resulting from such dumping, or perform public service related to the removal of  
 16 illegally dumped ~~waste~~ egregious litter or to the restoration of an area polluted by such  
 17 ~~waste~~ substance.

18 (e)(1) The court shall cause to be published a notice of conviction for each person  
 19 convicted of violating any provision of this Code section. Such notices of conviction  
 20 shall be published in the manner of legal notices in the legal organ of the county in which  
 21 such person resides or, in the case of a nonresident, in the legal organ of the county in  
 22 which the person was convicted. Such notice of conviction shall contain the name and  
 23 address of the convicted person; date, time, and place of arrest; and disposition of the  
 24 case and shall be published once in the legal organ of the appropriate county in the  
 25 second week following such conviction or as soon thereafter as publication may be made.

26 (2) The convicted person for which a notice of conviction is published pursuant to this  
 27 subsection shall be assessed the cost of publication of such notice, and such assessment  
 28 shall be imposed at the time of conviction in addition to any other fine imposed pursuant  
 29 to this Code section.

30 (3) The clerk of the court, the publisher of any legal organ which publishes a notice of  
 31 conviction, and any other person involved in the publication of an erroneous notice of  
 32 conviction shall be immune from civil or criminal liability for such erroneous publication,  
 33 provided such publication was made in good faith.

34 16-7-53.1.

35 (a) Whenever a person has been arrested for a violation of Code Section 16-7-52  
 36 committed while driving, moving, or operating a vehicle, the arresting law enforcement

1 agency may impound the vehicle that the person was driving, moving, or operating at the  
 2 time of arrest until such time as the arrestee claiming the vehicle meets the conditions for  
 3 release in subsection (b) of this Code section or a person other than the arrestee meets the  
 4 conditions for release in subsection (c) of this Code section.

5 (b) A vehicle impounded pursuant to this Code section shall not be released unless the  
 6 person claiming the vehicle:

7 (1) Presents a valid driver's license, proof of ownership or lawful authority to operate the  
 8 motor vehicle, and proof of valid motor vehicle insurance for that vehicle; and

9 (2) Is able to operate the vehicle in a safe manner and would not be in violation of Title  
 10 40.

11 (c) A vehicle impounded pursuant to this Code section may be released to a person other  
 12 than the arrestee only if:

13 (1) The vehicle is not owned or leased by the person under arrest and the person who  
 14 owns or leases the vehicle claims the vehicle and meets the conditions for release in  
 15 subsection (b) of this Code section; or

16 (2) The vehicle is owned or leased by the arrestee, the arrestee gives written permission  
 17 to another person to operate the vehicle, and the conditions for release in subsection (b)  
 18 of this Code section are met.

19 (d) A law enforcement agency impounding a vehicle pursuant to this Code section may  
 20 charge a reasonable fee for towing and storage of the vehicle. The law enforcement agency  
 21 may retain custody of the vehicle until that fee is paid.

22 16-7-54.

23 Whenever any waste egregious litter which is dumped in violation of Code Section 16-7-52  
 24 is discovered to contain any article or articles, including but not limited to letters, bills,  
 25 publications, or other writings which display the name of a person thereon, addressed to  
 26 such person or in any other manner indicating that the article belongs or belonged to such  
 27 person, ~~it shall be a rebuttable presumption~~ the trier of fact may in its discretion and in  
 28 consideration of the totality of the circumstances infer that such person has violated this  
 29 part.

30 16-7-55.

31 (a) Nothing in this part shall limit the authority of any state agency, county, municipality,  
 32 or consolidated government to enforce any other laws, rules, or regulations relating to  
 33 waste egregious litter or the management of solid, biomedical, or hazardous waste.

34 (b) Nothing within this part shall be construed to prohibit the adoption of local ordinances  
 35 regulating and controlling egregious litter within the jurisdiction of any county,

1 municipality, or consolidated government. Violation of such ordinances shall be punished  
 2 as provided in the municipal charter or local ordinances.

3 16-7-56.

4 Nothing in this part shall be construed so as to repeal, supersede, amend, or modify any  
 5 provision of Title 12."

6 **SECTION 2-3.**

7 Article 1 of Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to  
 8 general provisions relative to elections and primaries generally, and Article 2 of Chapter 7  
 9 of Title 16 of the Official Code of Georgia Annotated, relating to criminal trespass and  
 10 damage to property, are amended by striking Code Section 21-2-3, relating to prohibited  
 11 placement of campaign posters, signs, and advertisements, and inserting in lieu thereof in  
 12 said Article 2 of Chapter 7 of Title 16 the following:

13 "Part 3A

14 ~~21-2-3~~ 16-7-58.

15 (a) It shall be unlawful for any person to place ~~campaign~~ posters, signs, ~~and or~~  
 16 advertisements:

17 ~~(1) Within the right of way of any public streets, roads, or highways;~~

18 ~~(2)~~(1) On any public property or building, unless the owner thereof or the occupier as  
 19 authorized by such owner has given permission to place such posters, signs, or  
 20 advertisements on such property; provided, however, that signs within the rights of way  
 21 of public roads shall be governed by Code Section 32-6-51;

22 ~~(3)~~(2) On any private property unless the owner thereof or the occupier as authorized by  
 23 such owner has given permission to place such ~~campaign~~ posters, signs, ~~and or~~  
 24 advertisements on such property; or

25 ~~(4) Reserved;~~

26 ~~(5)~~(3) On any property zoned for commercial or industrial uses if the placement of such  
 27 ~~campaign~~ posters, signs, ~~and or~~ advertisements conflicts with any zoning laws or  
 28 ordinances.

29 (b) Any poster, sign, or advertisement placed in violation of paragraph (1) of subsection  
 30 (a) of this Code section is declared to be a public nuisance, and the officials having  
 31 jurisdiction of the public property or building, including without limitation law  
 32 enforcement officers, may remove or direct the removal of the same.

1 (c) Each poster, sign, or advertisement placed in violation of this Code section shall  
 2 constitute a separate offense.

3 ~~(b)(d)~~ Any person who violates this Code section shall be guilty of a misdemeanor shall  
 4 be punished the same as for littering under Code Section 16-7-43."

5 **PART III**

6 **SECTION 3-1.**

7 Chapter 8 of Title 12 of the Official Code of Georgia Annotated, relating to waste  
 8 management, is amended by striking paragraph (1.1) of Code Section 12-8-22, relating to  
 9 definitions relative to solid waste, and inserting in lieu thereof the following:

10 "(1.1) 'Biomedical waste' means pathological waste, biological waste cultures and stocks  
 11 of infectious agents and associated biologicals, contaminated animal carcasses (body  
 12 parts, their bedding, and other wastes from such animals), sharps, chemotherapy waste,  
 13 discarded medical equipment and parts, not including expendable supplies and materials  
 14 which have not been decontaminated, as further defined in Rule 391-3-4-.15 of the board  
 15 as such rule existed on January 1, 2006, and other such waste materials."

16 **SECTION 3-2.**

17 Said chapter is further amended in Code Section 12-8-31, relating to a solid waste  
 18 management plan, by adding a new subsection to read as follows:

19 "(e) By December 31, 2006, and annually thereafter, the Department of Community  
 20 Affairs, as part of the annual solid waste report required in subsection (d) of this Code  
 21 section and in cooperation with state agencies and other entities involved in litter  
 22 prevention or abatement, shall report to the Governor and the General Assembly the status  
 23 of litter prevention and abatement in this state. The litter report shall include but not be  
 24 limited to:

- 25 (1) An itemization of expenditures made from the Solid Waste Trust Fund for the  
 26 prevention and abatement of litter;  
 27 (2) A compilation and analysis of litter prevention, collection, and enforcement efforts;  
 28 (3) An assessment of littering in this state;  
 29 (4) A statement of progress in achieving a litter prevention ethic; and  
 30 (5) Recommendations for improving litter abatement and prevention efforts."

**SECTION 3-3.**

Said chapter is further amended by striking paragraph (10) of Code Section 12-8-62, relating to definitions relative to hazardous waste management, and inserting in lieu thereof the following:

"(10) 'Hazardous waste' means any solid waste which has been defined as a hazardous waste in regulations promulgated by the administrator of the United States Environmental Protection Agency pursuant to the federal act which are in force and effect on ~~February 1, 1996~~ January 1, 2006, codified as 40 C.F.R. Section 261.3 and any designated hazardous waste."

**SECTION 3-4.**

Said chapter is further amended by striking paragraph (4) of Code Section 12-8-92, relating to definitions relative to hazardous site response, and inserting in lieu thereof the following:

"(4) 'Hazardous substance' means any substance listed on the List of Hazardous Substances and Reportable Quantities, codified as 40 C.F.R., Part 302, Table 302.4, in force and effect on February 1, 1996, or any substance listed on the List of Extremely Hazardous Substances and Their Threshold Planning Quantities, codified as 40 C.F.R., Part 355, Appendix A, in force and effect on ~~February 1, 1996~~ January 1, 2006."

**SECTION 3-5.**

Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by adding a new Code section to read as follows:

"15-9-30.7.

(a) Subject to the provisions of subsection (b) of this Code section, in addition to any other jurisdiction vested in the probate courts, such courts shall have the right and power to conduct trials, receive pleas of guilty, and impose sentence upon defendants for violating any provision of Part 2, Part 3, or Part 3A of Article 2 of Chapter 7 of Title 16 or Code Section 32-6-51 or 40-6-248.1 that is punishable for its violation as a misdemeanor. Such jurisdiction shall be concurrent with other courts having jurisdiction over such violations.

(b) A probate court shall not have the power to dispose of misdemeanor cases as provided in subsection (a) of this Code section unless the defendant shall first waive in writing a trial by jury. If the defendant does not waive a trial by jury, the defendant shall notify the court and, if reasonable cause exists, the defendant shall be immediately bound over to a court in the county having jurisdiction to try the offense wherein a jury may be impaneled."

**SECTION 3-6.**

Said title is further amended by adding a new Code section to read as follows:

1 "15-10-2.1.

2 (a) Subject to the provisions of subsection (b) of this Code section, in addition to any other  
3 jurisdiction vested in the magistrate courts, such courts shall have the right and power to  
4 conduct trials, receive pleas of guilty, and impose sentence upon defendants for violating  
5 any provision of Part 2, Part 3, or Part 3A of Article 2 of Chapter 7 of Title 16 or Code  
6 Section 32-6-51 or 40-6-248.1 that is punishable for its violation as a misdemeanor. Such  
7 jurisdiction shall be concurrent with other courts having jurisdiction over such violations.

8 (b) A magistrate court shall not have the power to dispose of misdemeanor cases as  
9 provided in subsection (a) of this Code section unless the defendant shall first waive in  
10 writing a trial by jury. If the defendant does not waive a trial by jury, the defendant shall  
11 notify the court and, if reasonable cause exists, the defendant shall be immediately bound  
12 over to a court in the county having jurisdiction to try the offense wherein a jury may be  
13 impaneled."

14 **SECTION 3-7.**

15 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
16 amended by striking Code Section 17-6-9, relating to acceptance of cash bonds in lieu of  
17 statutory bond or recognizance by officers or officials authorized to enforce the "Litter  
18 Control Law," and inserting in lieu thereof the following:

19 "17-6-9.

20 Any law enforcement officer or official of a political subdivision of this state who is  
21 authorized to enforce Part 2 of Article 2 of Chapter 7 of Title 16, ~~the "Litter Control Law,"~~  
22 and who is authorized by the judge having jurisdiction of the offense to accept cash bonds  
23 may accept a cash bond for the personal appearance at trial of the person arrested in lieu  
24 of a statutory bond or recognizance. The procedures connected with such cash bonds,  
25 including, but not limited to, duties of the arresting officer, forfeiture, distribution of  
26 proceeds, and discretion of court as to disposal of the cash bond, shall be the same  
27 procedures applicable to arrest by a sheriff for a violation of any litter law."

28 **SECTION 3-8.**

29 Said title is further amended by adding a new Code section to read as follows:

30 "17-7-73.

31 In probate, magistrate, and municipal courts that have jurisdiction over violations of Part  
32 2, Part 3, or Part 3A of Article 2 of Chapter 7 of Title 16 or Code Section 32-6-51 or  
33 40-6-248.1 that are punishable as misdemeanors in accordance with Code Section  
34 15-9-30.7, 15-10-2.1, or 36-32-10.3 such offenses may be tried upon a summons or citation  
35 with or without an accusation."



1 "32-6-51.

2 (a)(1) It shall be unlawful for any person to erect, place, or maintain within the dedicated  
3 right of way of any public road any sign, signal, or other device except as authorized by  
4 this subsection or subsection (d) of this Code section or as required or authorized by Code  
5 Section 32-6-50 or any other law.

6 (2) The erection, placement, and maintenance of signs within the dedicated rights of way  
7 of county roads or municipal streets may be authorized and governed by ordinances  
8 adopted by governing authorities of counties and municipalities having jurisdiction over  
9 such roads or streets, which ordinances as to such dedicated rights of way of county roads  
10 or municipal streets may be as or less restrictive than the provisions of paragraph (1) of  
11 this subsection.

12 (b) It shall be unlawful for any person to erect, place, or maintain in a place or position  
13 visible from any public road any unauthorized sign, signal, device, or other structure  
14 which:

15 (1) Imitates, resembles, or purports to be an official traffic-control device;

16 (2) Hides from view or interferes with the effectiveness of any official traffic-control  
17 device;

18 (3) Obstructs a clear view from any public road to any other portion of such public road,  
19 to intersecting or adjoining public roads, or to property abutting such public road in such  
20 a manner as to constitute a hazard to traffic on such roads; or

21 (4) Because of its nature, construction, or operation, constitutes a dangerous distraction  
22 to or interferes with the vision of drivers of motor vehicles.

23 (c) Any sign, signal, device, or other structure erected, placed, or maintained on the  
24 dedicated right of way of any public road in violation of subsection (a) or (b) of this Code  
25 section or in violation of any ordinance adopted pursuant to subsection (a) of this Code  
26 section is declared to be a public nuisance, and the officials having jurisdiction of the  
27 public road affected may remove or direct the removal of the same. Where any sign, signal,  
28 device, or other structure is erected, placed, or maintained in violation of subsection (b) of  
29 this Code section, but not on the dedicated right of way of any public road, the officials  
30 having jurisdiction of the public road affected may order the removal of such structure by  
31 written notice to the owner of the structure or the owner of the land on which the structure  
32 is located. If such structure is not removed within 30 days after the giving of such order of  
33 removal, such officials are authorized to remove or cause to be removed such structure and  
34 to submit a statement of expenses incurred in the removal to the owner of the structure or  
35 to the owner of the land on which the structure is located. If payment or arrangement to  
36 make payment is not made within 60 days after the receipt of said statement, the  
37 department shall certify the amount thereof for collection to the Attorney General.

1 (d)(1) As used in this subsection, the term:

2 (A) 'Bus shelter' means a shelter or bench located at bus stops for the convenience of  
3 passengers of public transportation systems owned and operated by governmental units  
4 or public authorities or located on county or municipality rights of way for the  
5 convenience of residents.

6 (B) 'Commercial ~~advertisement~~ advertisements' means a any printed or painted sign  
7 ~~encouraging or promoting the purchase or use of goods or services but does not include~~  
8 ~~campaign posters, signs, or advertisements prohibited by Code Section 21-2-3~~ signs on  
9 a bus shelter for which space has been rented or leased from the owner of such shelter.

10 (2) Bus shelters, including those on which commercial advertisements are placed, may  
11 be erected and maintained on the rights of way of public roads subject to the following  
12 conditions and requirements:

13 (A) Any public transit system wishing to erect and maintain a bus shelter on the right  
14 of way of a state road shall apply to the department for a permit, and as a condition of  
15 the issuance of the permit, the department must approve the bus shelter building plans  
16 and the location of the bus shelter on the right of way; provided, however, that such  
17 approval is subject to any and all restrictions imposed by Title 23, U.S.C., and Title 23,  
18 Code of Federal Regulations relating to the federal-aid system. This paragraph shall  
19 entitle only public transit systems or their designated agents the right to be issued  
20 permits under this paragraph;

21 (B) If the bus shelter is to be located on the right of way of a public road other than a  
22 state road within a county or municipality, application for permission to erect and  
23 maintain such shelter shall be made to the respective county or municipality. Such  
24 application shall conform to the county's and municipality's regulations governing the  
25 erection and maintenance of such structures. When the county or municipality is served  
26 by a public transit agency or authority, the applications for all bus shelters on routes of  
27 such agency or authority shall also be forwarded by the applicant to such transit agency  
28 or authority and subject to the approval of such agency or authority; and

29 (C) As a condition of issuing a permit for the erection of a bus shelter on the right of  
30 way of a state road, the department shall require that the bus shelter shall be properly  
31 maintained and that its location shall meet minimum setback requirements as follows:

32 (i) Where a curb and gutter are present, there shall be a minimum of four feet  
33 clearance from the face of the curb to any portion of the bus shelter or the bus shelter  
34 shall be placed at the back of the existing concrete sidewalk; or

35 (ii) Where no curb or gutter is present, the front of the bus shelter shall be at least ten  
36 feet from the edge of the main traveled roadway.

1 (3) Any bus shelter erected and maintained on the right of way of a public road in  
 2 violation of paragraph (2) of this subsection or in violation of the conditions of the permit  
 3 issued by the department or in violation of the conditions of the consent of the county or  
 4 municipality is declared to be a public nuisance and if it is determined to be a hazard to  
 5 public safety by the department, county, or municipality, it may be removed or its  
 6 removal may be ordered by the department or the governing authority of the respective  
 7 county or municipality. In every case of removal of a bus shelter as a hazard to public  
 8 safety by the department, a county, or a municipality, a good faith attempt shall be made  
 9 to notify the owner of its removal. In such cases where the department, county, or  
 10 municipality orders the removal of the bus shelter as a public nuisance, if such a bus  
 11 shelter is not removed by its owner within 30 days after its owner has been issued a  
 12 written order of removal by the department or the governing authority of the respective  
 13 county or municipality, the department or the governing authority of the respective  
 14 county or municipality may cause the bus shelter to be removed and submit a statement  
 15 of expenses incurred in the removal to the owner of the bus shelter. In the case of a  
 16 statement of expenses for removal of a shelter on a state road, if payment or arrangement  
 17 to make payment is not made within 60 days after the receipt of such statement, the  
 18 department shall certify the amount thereof to the Attorney General for collection.

19 (4) The person to whom a permit has been issued for the erection and maintenance of a  
 20 bus shelter on the right of way of a public road or who places such shelter on a public  
 21 road other than a state road shall at all times assume all risks for the bus shelter and shall  
 22 indemnify and hold harmless the State of Georgia, the department, and any county or  
 23 municipality against all losses or damages resulting solely from the existence of the bus  
 24 shelter.

25 (5) Permits for shelters on state roads shall be issued under this subsection only to cities,  
 26 counties, or public transportation authorities owning or operating public transportation  
 27 systems or their designated agents.

28 (e) Each sign erected, placed, or maintained in violation of paragraph (1) of subsection (a)  
 29 of this Code section shall constitute a separate offense.

30 (f) Any person who violates paragraph (1) of subsection (a) of this Code section shall be  
 31 punished the same as for littering under Code Section 16-7-43. Any person who violates  
 32 subsection (b) of this Code section shall be guilty of a misdemeanor."

### 33 SECTION 3-11.

34 Article 1 of Chapter 32 of Title 36 of the Official Code of Georgia Annotated, relating to  
 35 general provisions relative to municipal courts, is amended by adding a new Code section  
 36 to read as follows:

1 "36-32-10.3.

2 (a) Subject to the provisions of subsection (b) of this Code section, in addition to any other  
3 jurisdiction vested in the municipal courts, such courts shall have the right and power to  
4 conduct trials, receive pleas of guilty, and impose sentence upon defendants for violating  
5 any provision of Part 2, Part 3, or Part 3A of Article 2 of Chapter 7 of Title 16 or Code  
6 Section 32-6-51 or 40-6-248.1 that is punishable for its violation as a misdemeanor. Such  
7 jurisdiction shall be concurrent with other courts having jurisdiction over such violations.

8 (b) A municipal court shall not have the power to dispose of misdemeanor cases as  
9 provided in subsection (a) of this Code section unless the defendant shall first waive in  
10 writing a trial by jury. If the defendant does not waive a trial by jury, the defendant shall  
11 notify the court and, if reasonable cause exists, the defendant shall be immediately bound  
12 over to a court in the county having jurisdiction to try the offense wherein a jury may be  
13 impaneled."

14 **SECTION 3-12.**

15 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
16 amended in Code Section 40-5-57, relating to suspension or revocation of drivers' licenses  
17 of habitually negligent or dangerous drivers and the points system, by striking subparagraph  
18 (c)(1)(A) and inserting in lieu thereof the following:

19 "(c)(1)(A) Except as provided in subparagraph (C) of this paragraph, the points to be  
20 assessed for each offense shall be as provided in the following schedule:

21	Aggressive driving.....	6 points
22	Reckless driving.....	4 points
23	Unlawful passing of a school bus.....	6 points
24	Improper passing on a hill or a curve.....	4 points
25	Exceeding the speed limit by more than 14 miles per hour but	
26	less than 19 miles per hour.....	2 points
27	Exceeding the speed limit by 19 miles per hour or more but	
28	less than 24 miles per hour.....	3 points
29	Exceeding the speed limit by 24 miles per hour or more but	
30	less than 34 miles per hour.....	4 points
31	Exceeding the speed limit by 34 miles per hour or more.....	6 points
32	Disobedience of any traffic-control device or traffic officer.....	3 points
33	Too fast for conditions.....	0 points
34	Possessing an open container of an alcoholic beverage while driving.....	2 points
35	Failure to adequately secure a load, <del>except fresh farm produce,</del>	
36	resulting in loss of such load onto the roadway <del>which results in</del>	

- 1        ~~an accident~~ or littering from a motor vehicle.....2 points
- 2        Violation of child safety restraint requirements, first offense.....1 point
- 3        Violation of child safety restraint requirements, second or
- 4        subsequent offense.....2 points
- 5        All other moving traffic violations which are not speed limit
- 6        violations.....3 points"

**SECTION 3-13.**

8 Said title is further amended by striking Code Section 40-6-249, relating to littering  
9 highways, and inserting in lieu thereof the following:

10 "40-6-249.

11 ~~A person~~ Any person littering a highway in violation of Part 2 of Article 2 of Chapter 7 of  
12 Title 16, ~~the 'Litter Control Law,'~~ or driving, moving, or loading for operation a vehicle in  
13 violation of Code Section 40-6-248.1 shall be guilty of a misdemeanor and, upon  
14 conviction thereof, shall be punished as provided in Code Section 16-7-43."

**PART IV**

**SECTION 4-1.**

17 The Official Code of Georgia Annotated is amended by reserving the following former  
18 designations:

- 19        (1) Code Section 32-6-21; and
- 20        (2) Code Section 21-2-3.

**PART V**

**SECTION 5-1.**

23 All laws and parts of laws in conflict with this Act are repealed.