

SENATE SUBSTITUTE TO HB 1320

AS PASSED SENATE

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 Title 15 of the Official Code of
15 Georgia Annotated, relating to courts, so as to provide for jurisdiction of certain courts over
16 littering offenses; to amend Title 17 of the Official Code of Georgia Annotated, relating to
17 criminal procedure, so as to provide for trial of certain littering offenses upon a summons or
18 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 provide effective dates; to repeal conflicting laws; and for
 3 other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 **PART I**

6 **SECTION 1-1.**

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

9 **PART II**

10 **SECTION 2-1.**

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

14 "Part 2

15 16-7-40.

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

17 16-7-41.

18 ~~Repeated.~~ Reserved.

19 16-7-42.

20 As used in this part, the term:

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

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

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

27 (2) 'Public or private property' means the right of way of any road or highway; any body
 28 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 intentionally dump ~~waste~~ egregious litter unless
 14 authorized to do 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 intentionally dumps ~~waste~~ egregious litter in violation of Code
 25 Section 16-7-52 in an amount not exceeding 500 pounds in weight or 100 cubic feet in
 26 volume which is not biomedical waste, hazardous waste, or a hazardous substance and not
 27 for commercial purposes shall be guilty of a misdemeanor of a high and aggravated nature.
 28 For purposes of this subsection, each day a continuing violation occurs shall constitute a
 29 separate violation.

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

1 \$25,000.00 for each violation or imprisoned for not more than ~~two~~ five years, or both;
2 provided, however, that the portion of any term of imprisonment exceeding two years shall
3 be probated conditioned upon payment of a fine imposed under this subsection. For
4 purposes of this subsection, each day a continuing violation occurs shall constitute a
5 separate violation.

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

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

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

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

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

1 16-7-53.1.

2 (a) Whenever a person has been arrested for a violation of Code Section 16-7-52
 3 committed while driving, moving, or operating a vehicle, the arresting law enforcement
 4 agency may impound the vehicle that the person was driving, moving, or operating at the
 5 time of arrest until such time as the arrestee claiming the vehicle meets the conditions for
 6 release in subsection (b) of this Code section or a person other than the arrestee meets the
 7 conditions for release in subsection (c) of this Code section.

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

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

12 (2) Is able to operate the vehicle in a safe manner and would not be in violation of Title
 13 40.

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

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

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

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

25 16-7-54.

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

1 16-7-55.

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

5 (b) Nothing within this part shall be construed to prohibit the adoption of local ordinances
 6 regulating and controlling egregious litter within the jurisdiction of any county,
 7 municipality, or consolidated government. Violation of such ordinances shall be punished
 8 as provided in the municipal charter or local ordinances.

9 16-7-56.

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

12 **SECTION 2-3.**

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

19 "Part 3A

20 ~~21-2-3~~ 16-7-58.

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

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

24 ~~(2)~~(1) On any public property or building, unless the owner thereof or the occupier as
 25 authorized by such owner has given permission to place such posters, signs, or
 26 advertisements on such property; provided, however, that signs within the rights of way
 27 of public roads shall be governed by Code Section 32-6-51;

28 ~~(3)~~(2) On any private property unless the owner thereof or the occupier as authorized by
 29 such owner has given permission to place such ~~campaign~~ posters, signs, and or
 30 advertisements on such property; or

31 ~~(4) Reserved;~~

1 ~~(5)~~(3) On any property zoned for commercial or industrial uses if the placement of such
 2 ~~campaign~~ posters, signs, ~~and~~ or advertisements conflicts with any zoning laws or
 3 ordinances.

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

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

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

12 PART III

13 SECTION 3-1.

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

17 "(1.1) 'Biomedical waste' means pathological waste, biological waste cultures and stocks
 18 of infectious agents and associated biologicals, contaminated animal carcasses (body
 19 parts, their bedding, and other wastes from such animals), sharps, chemotherapy waste,
 20 discarded medical equipment and parts, not including expendable supplies and materials
 21 which have not been decontaminated, as further defined in Rule 391-3-4-.15 of the board
 22 as such rule existed on January 1, 2006, and other such waste materials."

23 SECTION 3-2.

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

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

32 (1) An itemization of expenditures made from the Solid Waste Trust Fund for the
 33 prevention and abatement of litter;

34 (2) A compilation and analysis of litter prevention, collection, and enforcement efforts;

- 1 (3) An assessment of littering in this state;
 2 (4) A statement of progress in achieving a litter prevention ethic; and
 3 (5) Recommendations for improving litter abatement and prevention efforts."

4 **SECTION 3-3.**

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

8 "(10) 'Hazardous waste' means any solid waste which has been defined as a hazardous
 9 waste in regulations promulgated by the administrator of the United States Environmental
 10 Protection Agency pursuant to the federal act which are in force and effect on ~~February~~
 11 ~~1, 1996~~ January 1, 2006, codified as 40 C.F.R. Section 261.3 and any designated
 12 hazardous waste."

13 **SECTION 3-4.**

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

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

21 **SECTION 3-5.**

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

24 "15-9-30.7.

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

31 (b) A probate court shall not have the power to dispose of misdemeanor cases as provided
 32 in subsection (a) of this Code section unless the defendant shall first waive in writing a trial
 33 by jury. If the defendant does not waive a trial by jury, the defendant shall notify the court

1 and, if reasonable cause exists, the defendant shall be immediately bound over to a court
2 in the county having jurisdiction to try the offense wherein a jury may be impaneled."

3 **SECTION 3-6.**

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

5 "15-10-2.1.

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

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

18 **SECTION 3-7.**

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

23 "17-6-9.

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

32 **SECTION 3-8.**

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

1 "17-7-73.

2 In probate, magistrate, and municipal courts that have jurisdiction over violations of Part
3 2, Part 3, or Part 3A of Article 2 of Chapter 7 of Title 16 or Code Section 32-6-51 or
4 40-6-248.1 that are punishable as misdemeanors in accordance with Code Section
5 15-9-30.7, 15-10-2.1, or 36-32-10.3 such offenses may be tried upon a summons or citation
6 with or without an accusation."

7 **SECTION 3-9.**

8 Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to regulation of
9 maintenance and use of public roads generally, and Title 40 of the Official Code of Georgia
10 Annotated, relating to motor vehicles and traffic, are amended by striking Code Section
11 32-6-21, relating to securing loads on vehicles, and inserting in lieu thereof in said Title 40
12 the following:

13 "~~32-6-21~~ 40-6-248.1.

14 (a) As used in this Code section, the term 'litter' has the meaning provided by paragraph (1)
15 of Code Section 16-7-42.

16 ~~(a)~~(a.1) No vehicle shall be driven or moved on any public road unless such vehicle is
17 constructed or loaded or covered so as to prevent any of its load from dropping, escaping,
18 or shifting in such a manner as to ~~create~~;

19 (1) Create a safety hazard; or

20 (2) Deposit litter on public or private property while such vehicle is on a public road.

21 However, this Code section shall not prohibit the necessary spreading of any substance in
22 public road maintenance or construction operations.

23 (b) No person shall operate or load for operation, on any public road, any vehicle with any
24 load unless such load and any covering thereon is securely fastened so as to prevent said
25 covering or load from ~~becoming~~;

26 (1) Becoming loose, detached, or in any manner becoming a hazard to other users of the
27 public road; or

28 (2) Depositing litter on public or private property while such vehicle is on a public road.

29 (c) Nothing in this Code section nor any regulations based thereon shall conflict with
30 federal, Georgia Public Service Commission, or Georgia Board of Public Safety regulations
31 applying to the securing of loads on motor vehicles.

32 (d) The provisions of paragraph (2) of subsection (a) and paragraph (2) of subsection (b)
33 of this Code section and regulations based thereon shall not apply to vehicles carrying
34 organic debris that escapes during the transportation of silage from field or farm to storage
35 and storage to feedlot or vehicles or equipment carrying unginmed cotton during the

1 transportation of agricultural or farm products or silvicultural products from farm or forest
 2 to a processing plant or point of sale or use."

3 **SECTION 3-10.**

4 Said chapter is further amended by striking Code Section 32-6-51, relating to erection,
 5 placement, or maintenance of unlawful or unauthorized structure and removal thereof, and
 6 inserting in lieu thereof the following:

7 "32-6-51.

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

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

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

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

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

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

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

29 (c) Any sign, signal, device, or other structure erected, placed, or maintained on the
 30 dedicated right of way of any public road in violation of subsection (a) or (b) of this Code
 31 section or in violation of any ordinance adopted pursuant to subsection (a) of this Code
 32 section is declared to be a public nuisance, and the officials having jurisdiction of the
 33 public road affected may remove or direct the removal of the same. Where any sign, signal,
 34 device, or other structure is erected, placed, or maintained in violation of subsection (b) of
 35 this Code section, but not on the dedicated right of way of any public road, the officials

1 having jurisdiction of the public road affected may order the removal of such structure by
 2 written notice to the owner of the structure or the owner of the land on which the structure
 3 is located. If such structure is not removed within 30 days after the giving of such order of
 4 removal, such officials are authorized to remove or cause to be removed such structure and
 5 to submit a statement of expenses incurred in the removal to the owner of the structure or
 6 to the owner of the land on which the structure is located. If payment or arrangement to
 7 make payment is not made within 60 days after the receipt of said statement, the
 8 department shall certify the amount thereof for collection to the Attorney General.

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

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

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

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

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

29 (B) If the bus shelter is to be located on the right of way of a public road other than a
 30 state road within a county or municipality, application for permission to erect and
 31 maintain such shelter shall be made to the respective county or municipality. Such
 32 application shall conform to the county's and municipality's regulations governing the
 33 erection and maintenance of such structures. When the county or municipality is served
 34 by a public transit agency or authority, the applications for all bus shelters on routes of
 35 such agency or authority shall also be forwarded by the applicant to such transit agency
 36 or authority and subject to the approval of such agency or authority; and

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

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

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

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

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

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

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

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

4 **SECTION 3-11.**

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

8 "36-32-10.3.

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

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

21 **SECTION 3-12.**

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

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

- 28 Aggressive driving.....6 points
- 29 Reckless driving.....4 points
- 30 Unlawful passing of a school bus.....6 points
- 31 Improper passing on a hill or a curve.....4 points
- 32 Exceeding the speed limit by more than 14 miles per hour but
 33 less than 19 miles per hour.....2 points
- 34 Exceeding the speed limit by 19 miles per hour or more but
 35 less than 24 miles per hour.....3 points

1	Exceeding the speed limit by 24 miles per hour or more but	
2	less than 34 miles per hour.....	4 points
3	Exceeding the speed limit by 34 miles per hour or more.....	6 points
4	Disobedience of any traffic-control device or traffic officer.....	3 points
5	Too fast for conditions.....	0 points
6	Possessing an open container of an alcoholic beverage while driving.....	2 points
7	Failure to adequately secure a load, except fresh farm produce,	
8	resulting in loss of such load onto the roadway which results in	
9	an accident.....	2 points
10	Violation of child safety restraint requirements, first offense.....	1 point
11	Violation of child safety restraint requirements, second or	
12	subsequent offense.....	2 points
13	All other moving traffic violations which are not speed limit	
14	violations.....	3 points"

SECTION 3-13.

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

18 "40-6-249.

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

PART IV

SECTION 4-1.

25 The Official Code of Georgia Annotated is amended by reserving the following former
26 designations:

- 27 (1) Code Section 32-6-21; and
- 28 (2) Code Section 21-2-3.

PART V**SECTION 5-1.**

1
2
3 This Act shall become effective upon its approval by the Governor or upon its becoming law
4 without such approval for purposes of adopting local ordinances to become effective on or
5 after July 1, 2006; and for all other purposes, this Act shall become effective on July 1, 2006.

SECTION 5-2.

6
7 All laws and parts of laws in conflict with this Act are repealed.