

Danbury

By Rock Henderson

H. B. No. 1229

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to litter abatement and recycling; providing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. SHORT TITLE. This Act may be cited as the Litter  
5 Abatement and Recycling Support Act.

6 SECTION 2. DEFINITIONS. In this Act:

7 (1) "Bulk container" means any receptacle used in a  
8 residential, multiresidential, commercial, industrial, or public  
9 location that has a capacity greater than 30 gallons or that, when  
10 filled, has a designed load capacity greater than 100 pounds for  
11 both the container and its contents and includes a receptacle that  
12 is typically transported or emptied by nonmanual means.

13 (2) "Collection center" means a facility primarily dedicated  
14 to and equipped for the collection and storage of recyclable  
15 materials before those materials are further altered for sale and  
16 shipment to a final purchaser or a processing center, if on-site  
17 processing produces material ready for shipment to a final  
18 purchaser with a value to the final purchaser equal to the usual  
19 value of material offered for sale.

20 (3) "Construction and demolition trash" means solid waste  
21 that is generated at a construction or demolition site, including  
22 bricks, lumber, Sheetrock, insulation scraps, and shingles or any  
23 other materials or packaging generated at a construction or  
24 demolition site.

1           (4) "Container" includes any bulk receptacle, disposable  
2 bag, litterbag, litter receptacle, or other receptacle.

3           (5) "Commission" means the Governor's Advisory Commission on  
4 Litter Abatement and Recycling Support.

5           (6) "Director" means the executive director of the Litter  
6 Abatement and Recycling Support Division of the Office of the  
7 Governor.

8           (7) "Disposable bag" means any bag or sack made of a  
9 synthetic or natural organic material that is designed for the  
10 storage of solid waste, that has the strength to securely hold at  
11 least 30 gallons or up to 50 pounds of solid waste, and that can be  
12 secured at the open end to prevent exposure of its contents to the  
13 elements.

14           (8) "Disposable package" means a package, material, box, or  
15 container that is not specifically designed to be reused for its  
16 original packaging or containerizing purpose.

17           (9) "Disposal facility" includes sanitary landfills,  
18 transfer stations, satellite public solid waste disposal sites,  
19 incinerators, and solid waste processing plants.

20           (10) "Division" means the Litter Abatement and Recycling  
21 Support Division of the Office of the Governor.

22           (11) "Elements" means any man-made or natural force that,  
23 with reasonable foreseeability, could carry solid waste from one  
24 place to another and includes air currents, rain, water currents,  
25 and animals.

26           (12) "Garbage" means any putrescible animal or plant matter,  
27 such as solid waste from kitchens, residences, grocery stores,

1 butcher shops, restaurants, hotels, and boarding houses.

2 (13) "Heavy trash" means large items of solid waste such as  
3 appliances, furniture, large auto parts, trees, tree branches, and  
4 stumps, that, because of their large size, complicate handling by  
5 typical personal, private, or governmental collection, processing,  
6 and disposal methods.

7 (14) "Litter" means any man-made or man-used object, organic  
8 or inorganic material, or solid waste that is not properly  
9 containerized or placed in:

10 (A) an appropriately constructed, placed, operated, and  
11 serviced container with an affixed, tightly fitting lid;

12 (B) an authorized sanitary solid waste disposal site; or

13 (C) another approved area, depository, or vehicle designated  
14 for transport or disposal of solid waste.

15 (15) "Litterbag" means a bag, sack, or other container that  
16 is large enough to serve as a litter receptacle in a vehicle or  
17 watercraft.

18 (16) "Litter receptacle" means a container with a capacity  
19 of not less than 10 gallons that is constructed and placed for use  
20 as a public or private depository for litter or a 10-gallon to  
21 55-gallon container that is lined with a disposable bag and  
22 serviced with sufficient frequency to prevent dispersal of its  
23 contents by the elements.

24 (17) "Municipal collection" means regular collection by a  
25 municipal, county, or state agency or department.

26 (18) "Person" means an individual, corporation, partnership,  
27 organization, government or governmental subdivision or agency,

1 business trust, estate, trust, association, and any other legal  
2 entity.

3 (19) "Private collection" means collection, processing, or  
4 disposal by a nongovernmental person or means.

5 (20) "Processing center" means a facility primarily  
6 dedicated to receiving shipments of recyclable materials from  
7 collection centers to complete the reprocessing necessary to make  
8 materials acceptable to a final purchaser or collection center  
9 functions of which at least 33 percent of its operation must be  
10 dedicated to processing to achieve maximum purchaser acceptance and  
11 payment for materials.

12 (21) "Receptacle" means a sturdy, durable, watertight,  
13 reusable, solid waste container with a tightly fitting lid that has  
14 no more than a 50-gallon capacity and that weighs, including  
15 contents when full, not more than 100 pounds.

16 (22) "Recyclable material" means a material for which  
17 readily discernible retail and wholesale markets exist, and  
18 includes aluminum beverage containers, foil, scrap, ferrous metal,  
19 ferrous and nonferrous metal containers, glass, newspaper,  
20 cardboard, scrap paper, plastic containers, batteries, and motor  
21 oil.

22 (23) "Recycling" means the process of collecting,  
23 separating, cleaning, treating, processing, reconstituting, and  
24 selling waste or other discardable materials to recover and reuse  
25 the material or to reclaim its value.

26 (24) "Recycling center" means a collection or processing  
27 facility for recyclable materials within a community.

1           (25) "Refuse" means solid waste.

2           (26) "Resource recovery" means a system or process for the  
3 recovery of materials or energy from waste materials.

4           (27) "Rubbish" includes all nonputrescible solid wastes,  
5 whether or not combustible.

6           (28) "Solid waste" means a solid, semisolid, or liquid  
7 material that has become useless, unwanted, or discarded and  
8 includes construction and demolition trash, garbage, heavy trash,  
9 litter, refuse, rubbish, and trash.

10          (29) "Source separation" means separation of recyclable  
11 materials from other solid waste.

12          (30) "Trash" means all nonputrescible solid waste such as  
13 feathers, cigarette butts, retail, wholesale, and convenience  
14 packaging and packing materials, ashes, cans, bottles, paper,  
15 boxes, glass, grass, shrubs, yard cleanings, grass clippings,  
16 leaves, branches, and tree and hedge trimmings.

17          (31) "Vehicle" means a device that can be moved on a public  
18 highway and in, upon, or by which an individual or property can be  
19 moved or drawn upon a public road.

20          (32) "Watercraft" means a device that can be moved on a  
21 public waterway and in, upon, or by which an individual or property  
22 can be moved or drawn on public water.

23           SECTION 3. DIVISION CREATION. The Texas Litter Abatement  
24 and Recycling Support Division is established in the governor's  
25 office to implement a statewide, community-based litter control and  
26 recycling support program. The division shall administer this Act.

27           SECTION 4. DIVISION DUTIES. The Litter Abatement and

1 Recycling Support Division shall:

2 (1) serve as the coordinating agency between government and  
3 private organizations seeking to bring about sustained decreases in  
4 littering and litter accumulation or sustained increases in source  
5 separation and recycling activity;

6 (2) assist local charitable organizations and governmental  
7 units, including counties, water districts, flood control  
8 districts, and mosquito control districts in:

9 (A) adopting and revising ordinances and rules aimed at  
10 sustained abatement of littering and litter accumulation;

11 (B) upgrading community sanitation, technology, and waste  
12 handling practices generally;

13 (C) generating effective law enforcement priorities and  
14 practices; and

15 (D) devising and beginning ongoing, comprehensive public  
16 education programs;

17 (3) certify, encourage, and help organize and coordinate  
18 voluntary local programs to control and reduce litter on a  
19 sustained basis;

20 (4) certify, encourage, and help organize and coordinate  
21 voluntary local programs aimed at achieving and sustaining  
22 increased levels of source separation and recycling activity;

23 (5) encourage state and local agencies to cooperate with and  
24 aid litter abatement, source separation, and recycling programs, by  
25 means such as providing publicity and allowing use of publicly  
26 owned land, buildings, and equipment for litter abatement and  
27 recycling efforts;

1           (6) investigate the availability of, apply for, receive, and  
2 spend grants, gifts, donations, loan proceeds, or other funds  
3 available from any public or private source and solicit and accept  
4 nonmonetary support in the form of services, materials, and  
5 equipment for use in connection with any of the programs authorized  
6 under this Act;

7           (7) develop statewide programs to increase public awareness  
8 of and participation in recycling and litter abatement to stimulate  
9 and encourage formation and expansion of local private recycling  
10 centers;

11           (8) conduct research and development in the fields of litter  
12 control, source separation, recycling, litter abatement, and  
13 recycling cost-benefit analysis and reporting; and

14           (9) certify vehicle covering devices.

15           SECTION 5. POWERS OF THE DIVISION DIRECTOR. (a) The  
16 governor shall appoint an executive director of the division to  
17 serve at the pleasure of the governor. The executive director is  
18 the executive head of the division and may adopt rules necessary to  
19 carry out this Act.

20           (b) The director may request state and local governmental  
21 agencies that have enforcement capabilities to provide the services  
22 and personnel necessary to assist in the enforcement of this Act.  
23 An agency and its personnel who assist the director may enforce the  
24 provisions of this Act and the rules adopted under Subsection (a)  
25 of this section.

26           (c) The director may employ persons whose services are  
27 necessary to implement this Act. Those persons serve at the

1 pleasure of the director.

2 SECTION 6. DUTIES OF THE DIVISION DIRECTOR. The director  
3 shall:

4 (1) study research in the field of litter control,  
5 prevention, removal, disposal, and recycling and study methods to  
6 implement the research;

7 (2) serve as a coordinator between the state, state  
8 agencies, and organizations seeking to aid in the antilitter  
9 effort;

10 (3) cooperate with local governments to coordinate  
11 antilitter and prorecycling efforts;

12 (4) encourage voluntary local antilitter and prorecycling  
13 campaigns;

14 (5) apply to public and private entities for funds and other  
15 resources;

16 (6) develop and conduct educational programs to instill the  
17 antilitter and prorecycling ethic;

18 (7) design a state antilitter and prorecycling symbol;

19 (8) post antilitter signs in public places where the signs  
20 are required by law;

21 (9) design and make available to the public a litterbag  
22 bearing the state antilitter symbol and a statement of the  
23 penalties for littering provided in this Act;

24 (10) work with the Texas Department of Highways and Public  
25 Transportation, the Texas Department of Health, and the Parks and  
26 Wildlife Department to improve and increase the number of  
27 antilittering signs and litter receptacles on and near state and

1 county highways, rights-of-way, public land, and public water;

2 (11) develop, with the cooperation of the Texas Department  
3 of Highways and Public Transportation, the Texas Department of  
4 Health, the Parks and Wildlife Department, and local governments  
5 and community programs, an objective statewide system for measuring  
6 physical decreases in accumulated litter levels in the state based  
7 on a photometric index methodology according to typical land use  
8 patterns;

9 (12) aid the Texas Department of Public Safety in developing  
10 and implementing a plan by January 1, 1982, for:

11 (A) including information about antilitter laws in Texas  
12 driver's manuals, written driver's license examinations, and  
13 driver's training course material; and

14 (B) requiring a check for the presence of litter bags in  
15 passenger cars, trucks, and water vehicles to be made a part of  
16 annual vehicle safety inspection;

17 (13) aid the Central Education Agency in developing:

18 (A) by September 1, 1981, instructional material on litter  
19 abatement and recycling based on the Keep America Beautiful Clean  
20 Community System "Waste In Place" manual for optional use in public  
21 elementary and secondary schools;

22 (B) instructional material on litter abatement and recycling  
23 that will be part of the required curriculum in public elementary  
24 and secondary schools, that is geared to the teaching of reading,  
25 writing, and mathematics, and that is based on the Keep America  
26 Beautiful Clean Community System "Waste In Place" manual; and

27 (C) within six months after the final release by Keep

1 America Beautiful of its litter abatement and recycling  
2 instructional material, recommendations for optional or required  
3 use of the material in grades 7 through 12 of the public elementary  
4 and secondary schools;

5 (14) submit an annual report to the governor, the house of  
6 representatives, and the senate on the program's progress based on  
7 objective and subjective criteria; and

8 (15) establish at least one statewide "litter and recycling  
9 telephone hot line" to receive public complaints about litter and  
10 recycling and to dispense information about state and local  
11 litter-related laws and litter abatement and recycling programs.

12 SECTION 7. ADVISORY COMMISSION CREATION AND MEMBERSHIP. (a)  
13 The Governor's Advisory Commission on Litter Abatement and  
14 Recycling Support is created. The commission is composed of the  
15 executive director, who is an ex officio member, and 25 members  
16 appointed by the governor.

17 (b) In appointing members to the commission, the governor  
18 shall appoint:

- 19 (1) a retail merchant;
- 20 (2) a manufacturer;
- 21 (3) a soft drink bottler;
- 22 (4) a wholesale beer distributor;
- 23 (5) an owner of a retail liquor store;
- 24 (6) a representative of recycling collection centers;
- 25 (7) a representative of recycling processing centers;
- 26 (8) a representative of environmental protection groups;
- 27 (9) a representative of labor;

- 1 (10) a representative of the Texas Municipal League;  
2 (11) a member of the Texas Association of County Officials;  
3 (12) a representative of the Agricultural Extension Service;  
4 (13) a representative of the cattle industry;  
5 (14) a member of the association of police chiefs;  
6 (15) a member of the general contractors association;  
7 (16) a home builder;  
8 (17) a representative of the trucking industry;  
9 (18) a representative of the Texas Clean Community System  
10 community programs; and  
11 (19) seven members of the general public.

12 SECTION 8. TERM OF COMMISSION MEMBERSHIP. An appointed  
13 member of the commission shall serve for a two-year term.

14 SECTION 9. COMMISSIONER'S COMPENSATION. (a) An appointed  
15 member of the commission is entitled to reimbursement for actual  
16 and necessary expenses incurred in performing functions as a member  
17 of the commission.

18 (b) The executive director may not be compensated except as  
19 provided under the director's normal terms of employment.

20 SECTION 10. COMMISSION DUTIES. (a) The commission shall:

21 (1) adopt criteria that state and local governmental  
22 agencies and nonprofit corporations must meet to be certified under  
23 the antilitter and prorecycling investment tax credit provisions of  
24 this Act;

25 (2) hold at least one regular meeting every three months and  
26 special meetings called by the chairman or by a majority of  
27 commission members; and

1           (3) elect officers annually, including a chairman,  
2 vice-chairman, and secretary.

3           (b) A majority of the members of the commission constitutes  
4 a quorum to transact business.

5           SECTION 11. PROGRAM ACTIVITIES. The litter control and  
6 recycling support program as provided by Section 3 of this Act  
7 shall include:

8           (1) publicity campaigns to build and sustain public  
9 awareness of the problem of litter;

10           (2) efforts to stimulate community pride;

11           (3) efforts to gain a better understanding of the causes of  
12 littering;

13           (4) efforts to increase funds for litter cleanup and  
14 collection;

15           (5) stricter enforcement of litter control and reduction  
16 laws to increase voluntary compliance with these laws; and

17           (6) encouragement and funding of source separation and  
18 materials recycling programs and of research relating to resource  
19 separation and recovery to foster reuse of materials and savings of  
20 resources and energy.

21           SECTION 12. CERTIFICATION GUIDELINES FOR LITTER ABATEMENT  
22 PROGRAMS. (a) In determining whether to certify a litter  
23 abatement program:

24           (1) preference shall be given to a Clean Community System  
25 program that has been certified by Keep America Beautiful,  
26 Incorporated;

27           (2) secondary preference shall be given to a program that

1 can document that it is implementing or intends to implement the  
2 Positive Litter Reduction program of the United States Brewer's  
3 Association; and

4 (3) tertiary preference shall be given to a local program  
5 based on the findings of the Action Research Model generated by the  
6 Human Research Institute, Incorporated.

7 (b) A litter abatement program may not be certified unless  
8 it demonstrates to the division meaningful understanding of or  
9 commitment to the Clean Community System program, the Positive  
10 Litter Reduction program, or the Action Research Model.

11 SECTION 13. CERTIFICATION GUIDELINES FOR BEAUTIFICATION,  
12 RENOVATION, AND NEIGHBORHOOD REVITALIZATION PROGRAMS. (a) In  
13 determining whether to certify a beautification, renovation, and  
14 neighborhood revitalization program preference shall be given to  
15 programs that demonstrate involvement with and intent to implement  
16 the Clean Community System program, the Positive Litter Reduction  
17 program, or the Action Research Model in conjunction with  
18 beautification efforts.

19 (b) A program under this section may not be certified unless  
20 it is integrally involved with implementation of the Clean  
21 Community System program, the Positive Litter Reduction program, or  
22 the Action Research Model.

23 SECTION 14. CERTIFICATION GUIDELINES FOR RECYCLING PROGRAMS.

24 (a) To be certified, a recycling program must:

25 (1) be modeled after the organization of the Beverage  
26 Industry Recycling Program of Arizona as that program existed on  
27 the effective date of this Act;

1           (2) submit evidence of plans to initiate activities or  
2 expand on present efforts; and

3           (3) be able to offer substantial proof that:

4           (A) the program is sponsored by a governmental entity or a  
5 Texas nonprofit corporation;

6           (B) public or privately donated land is available on which  
7 the program can operate or that no donated land is available and  
8 land must be purchased or rented;

9           (C) an economic feasibility study and business plan for the  
10 operation of the program has been developed and approved locally,  
11 including a detailed listing of materials to be accepted and of  
12 firms that have issued letters of intent to purchase recycled  
13 material; and

14           (D) governmental entities will issue necessary licenses and  
15 permits to construct facilities and operate the program.

16           (b) In addition to the requirements of Subsection (a) of  
17 this section, to be certified, a recycling program must:

18           (1) offer a description of the accounting and cash control  
19 systems that will be implemented and of the arrangements made to  
20 provide for regular management reports; and

21           (2) detail the name, location, and total number of other  
22 recycling operations of a similar nature in the area.

23           SECTION 15. ADDITIONAL CERTIFICATION GUIDELINE. First  
24 preference for certification shall be given to those recycling  
25 programs that propose to integrate, directly or by cooperative  
26 arrangements with existing local efforts, all litter abatement,  
27 beautification, and recycling activities in one unified effort.

1           SECTION 16. CORPORATE FRANCHISE TAX CREDIT. (a) A domestic  
2 or foreign corporation liable for payment of Texas corporate  
3 franchise taxes that makes a cash contribution to a  
4 division-certified litter abatement or recycling program may claim  
5 a corporate franchise tax credit equal to 100 percent of the cash  
6 contribution up to the total amount of franchise taxes due.

7           (b) Any person purchasing division-certified  
8 vehicle-covering devices that are designed to prevent the escape of  
9 loose materials may claim a credit against his or her motor vehicle  
10 registration fees equal to the cost of those devices, exclusive of  
11 costs of installation, but not to exceed the lesser of \$270 or 50  
12 percent of the fees per open-bed vehicle owned and registered to  
13 each individual fee credit claimant.

14           (c) A domestic or foreign corporation liable for payment of  
15 Texas corporate franchise taxes that invests in fixed assets as a  
16 part of any division-certified recycling collection center may  
17 claim a corporate franchise tax credit not to exceed the lesser of  
18 33-1/3 percent of expenditures or \$5,000, in each of three  
19 consecutive tax years. Purchases of used equipment are eligible  
20 for this credit.

21           (d) A domestic or foreign corporation liable for payment of  
22 Texas corporate franchise taxes that invests in fixed assets as a  
23 part of any division-certified recycling processing center may  
24 claim a corporate franchise tax credit not to exceed the lesser of  
25 33-1/3 percent of those expenditures or \$20,000 in each of three  
26 consecutive tax years. Purchases of both new and used equipment  
27 are eligible for this credit.

1           (e) A domestic or foreign corporation liable for payment of  
2 Texas corporate franchise taxes that makes investments in  
3 recycling, collection, or processing center fixed assets and  
4 qualifies for tax credits under this section and immediately gives  
5 or loans the newly purchased acquisitions to a division-approved  
6 governmental or nonprofit, charitable litter abatement recycling  
7 program without restriction and in perpetuity shall qualify for the  
8 tax credits in this section as if the corporation or person had  
9 qualified under Subsections (b), (c), and (d) of this section.  
10 Purchasers of new and used equipment are eligible for this credit.

11           SECTION 17. SUNSET PROVISION. The tax credit provisions in  
12 Section 16 of this Act expire September 1, 1986, unless continued  
13 in effect by law.

14           SECTION 18. ANNUAL REPORT. (a) No later than 90 days after  
15 the end of each fiscal year, the executive director of the division  
16 shall prepare for the governor and the legislature a detailed  
17 report describing and evaluating:

18           (1) the activities of and services provided by the division;  
19           (2) the activities of and progress achieved by governmental  
20 or community level programs throughout the state in decreasing  
21 littering and litter accumulation;

22           (3) the activities of and progress achieved by governmental  
23 and community level programs throughout the state in realizing  
24 sustained increases in source separation and recycling activities;

25           (4) the achievements of division-certified programs that  
26 receive 15 percent or more of their revenue in cash contributions  
27 from an individual or corporation claiming antilitter and

1 prorecycling investment tax credits;

2 (5) cost and economic impact studies concerning expenditures  
3 by federal, state, county, and city governments for litter cleanup;

4 (6) cost and economic impact studies concerning expenditures  
5 that are indirectly related to litter such as expenditures on  
6 insurance premiums, personal and property damage restitution,  
7 public health, and environmental improvement;

8 (7) photometric index studies of litter accumulation levels  
9 within representative samples of land use throughout the state  
10 stratified to match the statewide distribution of population  
11 density; and

12 (8) findings on litter laws, litter abatement, and other  
13 statewide and industrial programs.

14 (b) Evaluations of litter abatement, materials conservation,  
15 energy savings, cost and cost benefit studies may not distinguish  
16 between those programs that have and those programs that have not  
17 been certified as provided by this Act.

18 SECTION 19. LITTERING. A person who disposes of a man-made  
19 or man-used object, organic or inorganic material, or solid waste  
20 commits an offense if that person fails to containerize or place  
21 the object, material, or waste in an appropriately constructed,  
22 placed, operated, and serviced container with an affixed, tightly  
23 fitting lid, or in an authorized sanitary solid waste disposal  
24 site, or another approved area, depository, or vehicle designated  
25 for transport or disposal of solid waste.

26 SECTION 20. REPORTING LITTERING. (a) A person who  
27 witnesses an item exiting from or parting from a vehicle,

1 watercraft, or offshore structure may report the approximate date,  
2 time, and location of the event, the license plate registration  
3 number, and the state of registration to an appropriate law  
4 enforcement authority. A report stating that litter exited from a  
5 particular vehicle and documenting the license plate registration  
6 number and the state of registration of the vehicle is, in the  
7 absence of controverting evidence, sufficient to support a finding  
8 of fact and judgment that the owner of the vehicle personally or  
9 through an agent, employee, or other assignee failed to properly  
10 containerize exiting solid waste.

11 (b) A law enforcement authority who receives the report of a  
12 witness documenting littering from a vehicle shall notify the owner  
13 of the vehicle that he or she has been reported for littering. The  
14 notice shall state the time, place, and date of the littering.

15 (c) In the case of littering from a watercraft or offshore  
16 structure, a report stating that litter came from a watercraft or  
17 offshore structure and documenting the Department of Parks and  
18 Wildlife TX-number, the United States Coast Guard documentation  
19 name or number posted on the stern and bow of a watercraft, or an  
20 individually distinctive identifying mark or color on an offshore  
21 structure is, in the absence of controverting evidence, sufficient  
22 to support a finding of fact and judgment that the owner of the  
23 watercraft or offshore structure, personally or through an agent,  
24 employee, or other assignee, failed to properly containerize  
25 exiting solid waste.

26 SECTION 21. RESPONSIBILITY FOR RETRIEVING LITTER. (a) A  
27 person who owns property commits an offense if that person allows

1 litter to remain on his or her residential, multiresidential,  
2 commercial, industrial, or unimproved property for more than 24  
3 hours.

4 (b) A person commits an offense if that person fails to  
5 retrieve and properly store litter that is on public property  
6 adjacent to that person's own property including litter that is on  
7 public easement areas, drainage ditches, rights-of-way, public  
8 roadbeds to the center line of the roadbed, and frontage roads not  
9 being used in lieu of main lanes, but excluding litter that is on  
10 state-owned rights-of-way.

11 SECTION 22. OPEN LAND MAINTENANCE. (a) A person who owns  
12 improved or unimproved land commits an offense if that person fails  
13 to keep a 100-foot wide strip of land along any adjoining property  
14 cut or mowed to a height of 18 inches or less. This subsection  
15 does not apply to land that is under cultivation or to a piece of  
16 land that is less than five acres in size.

17 (b) A person who owns an improved or unimproved piece of  
18 land of less than five acres commits an offense if that person  
19 fails to keep it cut or mowed to a height of 18 inches or less.

20 SECTION 23. PRESUMPTION CONCERNING ILLEGAL DUMPING. If an  
21 object of litter is on public or private property or water and the  
22 object of litter bears the name of a person other than the name of  
23 the property owner, that is, in the absence of controverting  
24 evidence, sufficient to support a finding of fact and judgment that  
25 the person whose name appears on the object caused or allowed it to  
26 be there without the property owner's permission, unless the  
27 property is an authorized waste disposal site.

1           SECTION 24. ILLEGALLY PLACED SIGNS. (a) A person commits  
2 an offense if that person places or paints a sign or poster on  
3 public land or water or on the property of another without the  
4 owner's consent or allows the placement or fails to exercise  
5 reasonable care to prevent placement by another.

6           (b) If a sign or poster bearing the name of a person or  
7 advertising a firm's products or services is discovered on the  
8 property of another or on any public land or water not specifically  
9 designated for authorized solid waste disposal, the person who  
10 discovers the sign or poster may report the name of the person or  
11 firm whose name appears on the sign or poster and the time, date,  
12 and location of the discovery to an appropriate law enforcement  
13 authority. A report that gives name of the person or firm is, in  
14 the absence of controverting evidence, sufficient to support a  
15 finding of fact and judgment that the person or owner of the name  
16 of the firm, even though acting through an agent, employee, or  
17 other assignee, illegally placed, authorized, or allowed the  
18 illegal placement of the sign or failed to reasonably control the  
19 placing of the sign.

20           (c) The person or firm named on a sign that is illegally  
21 placed may be notified in writing of the location of the sign by an  
22 authorized enforcement agency and shall be given not less than  
23 three business days to remove the sign and to offer a written  
24 statement in person or by mail swearing that the sign has been  
25 removed. A person who is notified to remove a sign commits an  
26 offense if that person fails to timely remove a sign or fails to  
27 inform the appropriate authority that the sign has been removed.

1 (d) Local governmental officers and entities may grant an  
2 exception to this section. The exception expires 90 days after it  
3 is issued unless it is reissued for an additional 90 days.

4 (e) A sign removed from public or private property under the  
5 provisions of this section may be disposed of in an authorized  
6 sanitary landfill, held or sold as scrap, or sold back to the  
7 original owner.

8 (f) Proceeds from a sale of a sign back to the original  
9 owner under Subsection (e) of this section, less \$3 for the cost of  
10 removal, may be used to aid local division-certified programs.

11 SECTION 25. LITTER RECEPTACLES REQUIRED. Litter receptacles  
12 shall be provided along public roads of the state, in public  
13 places, at public beaches and bathing areas, and in areas adjacent  
14 to private property that are held out for use by the public.

15 SECTION 26. FAILURE TO PROCURE, PLACE, AND MAINTAIN  
16 RECEPTACLE. A person who owns or operates an establishment or  
17 place at which one or more litter receptacles are required by  
18 Section 25 or Section 28 of this Act commits an offense if that  
19 person fails to procure, place, or maintain the type and number of  
20 receptacles required by Sections 28 and 29 of this Act.

21 SECTION 27. RESPONSIBILITY FOR COST OF RECEPTACLE. A person  
22 who owns or operates an establishment or place at which a litter  
23 receptacle is required by Section 25 or Section 28 of this Act is  
24 responsible for the cost of procuring, placing, and maintaining the  
25 receptacle.

26 SECTION 28. NUMBER AND PLACEMENT OF LITTER RECEPTACLES. (a)  
27 Banks, bank drive-ins, and automated teller locations shall have no

1 fewer than the following number of receptacles: one for each exit  
2 or entrance at a bank building, but not fewer than two for each  
3 building, one for each drive-in lane, and one for each unmanned,  
4 automated teller service location.

5 (b) Beaches and bathing areas shall have no fewer than the  
6 following number of receptacles: one at each place where food is  
7 sold, one at each area specifically designed for the consumption of  
8 food, one at each rest room structure, one at each campfire, and  
9 one at each outdoor sport site.

10 (c) A bus stop shall have no fewer than the following number  
11 of receptacles: one at each bus stop, bus shelter, school bus  
12 loading zone, and major transfer point.

13 (d) Boat fueling, launching, moorage, and pier areas shall  
14 have no fewer than the following number of receptacles: one at  
15 each boat fueling, launching, moorage, and pier area.

16 (e) Campgrounds and trailer parks shall have no fewer than  
17 the following number of receptacles: one at each area where food  
18 is sold, one at each area specifically designed for the consumption  
19 of food, one at each campfire, and one at each unit parking  
20 location.

21 (f) A construction site shall have no fewer than the  
22 following number of receptacles: one for each individual main  
23 structure of a construction site and as many additional units as  
24 the primary contractor determines are necessary to properly contain  
25 workmen's litter and safeguard construction wastes against  
26 noncalamitous elements.

27 (g) Convenience food stores and supermarkets shall have no

1 fewer than the following number of receptacles: one for each  
2 separate entrance or exit and one in each parking area.

3 (h) Drive-in, fast-food, and take-out restaurants shall have  
4 no fewer than the following number of receptacles: two for each  
5 restaurant building and one for each entrance or exit of each  
6 drive-through lane.

7 (i) A drive-in theater shall have no fewer than the  
8 following number of receptacles: one for each lane at each  
9 motorist exit, one in each area where food is sold, and one in each  
10 men's and women's rest room facility, but not fewer than one for  
11 every 200 parking places.

12 (j) A gasoline service station shall have no fewer than the  
13 following number of receptacles: one for each gas pump island.

14 (k) A loading and receiving dock shall have no fewer than  
15 the following number of receptacles: one for each loading and  
16 shipping lane but not more than one for each 50 linear frontage  
17 feet of the loading and shipping area.

18 (l) A mobile food vendor shall have no fewer than the  
19 following number of receptacles: one at each vending point within  
20 25 feet of the point of payment for foodstuffs.

21 (m) An outdoor parking lot shall have no less than the  
22 following number of receptacles: one for the first 50 stalls and  
23 one for each additional 200 stalls.

24 (n) A parking structure shall have no fewer than the  
25 following number of receptacles: one per floor for each stairway,  
26 elevator, and pedestrian exit, except if a stairway, elevator, or  
27 pedestrian exit is located within 50 feet of another stairway,

1 elevator, or pedestrian exit.

2 (o) Parks, playgrounds, and school athletic areas shall have  
3 no fewer than the following number of receptacles: one for each  
4 park, playground, and school athletic area, one at each area where  
5 food is sold, one at each area designed for the consumption of  
6 food, one at each men's and women's rest room, one at each campfire  
7 or campsite area, one at each pavilion, picnic area, softball or  
8 baseball playing site, and major entrance to a gymnasium or  
9 swimming pool area, one at each outdoor basketball court, golf  
10 course, tennis court, or volleyball playing site, and one for each  
11 120 bleacher seats or one for each bleacher section.

12 (p) Public buildings and schools shall have no fewer than  
13 the following number of receptacles: one at or near the main or  
14 most frequently used entrance of each facility.

15 (q) A public highway shall have no fewer than the following  
16 number of receptacles: one additional at each exit on a public  
17 right-of-way, overlook, or rest stop if the area is officially  
18 designated as a public right-of-way, overlook, or rest stop and  
19 needs two or more receptacles according to the primary  
20 jurisdictional authority.

21 (r) A self-service refreshment area shall have no fewer than  
22 the following number of receptacles: one for each separate area  
23 that contains two or more dispensing machines for food, drinks, or  
24 tobacco products.

25 (s) A sidewalk adjacent to a business establishment shall  
26 have no fewer than the following number of receptacles: one for  
27 each 100 frontage feet or fraction of 100 frontage feet.

1           (t) Shopping centers, malls, and related parking lots for  
2 public use shall have no fewer than the following number of  
3 receptacles: for each shopping center, mall, and related parking  
4 lot for public use receptacles to be placed so that there is one  
5 for each 200 feet of shopping center site frontage, or fraction of  
6 200 feet of frontage or 200 feet of leasable store frontage,  
7 whichever is greater and to be located along pedestrian passage  
8 routes normally taken by persons using the shopping center or mall.

9           (u) Sites of carnivals, circuses, concerts, fairgrounds,  
10 fairs, festivals, public events, public shows, and sporting events  
11 shall have no fewer than the following number of receptacles: two  
12 at each event site, one at each food or drink booth or vending  
13 site, one at each carnival, fair, or ride entrance or exit, and one  
14 at each end of a walk-through exhibit building or tent.

15           SECTION 29. MINIMUM STANDARDS FOR A RECEPTACLE. (a) A  
16 receptacle shall be:

17           (1) of 10- to 55-gallon capacity;

18           (2) a covered plastic or metal container, an uncovered  
19 plastic or metal container that is lined with a receptacle liner  
20 and serviced regularly, or any other container approved in writing  
21 by the division;

22           (3) reasonably stationary and secure from movement and  
23 destruction by vandals;

24           (4) constructed in a way to keep its contents reasonably  
25 secure from being removed by the elements;

26           (5) serviced with sufficient frequency to prevent spillage  
27 from overflow and to prevent offensive buildup of odors; and

1           (6) maintained in a way to present an aesthetically pleasing  
2 appearance.

3           (b) A receptacle may not be a filter basket of an open-weave  
4 construction unless it is lined with a disposable bag liner and  
5 covered.

6           SECTION 30. DATE. A person who owns or operates an  
7 establishment or place at which a litter receptacle is required by  
8 Section 25 or 28 of this Act commits an offense if that person  
9 fails to have the minimum number of receptacles as provided by  
10 Section 28 of this Act in place and serviceable by July 1, 1982.

11           SECTION 31. SOLID WASTE STORAGE. A person commits an  
12 offense if that person stores solid waste outside a covered, fully  
13 enclosed structure or places solid waste out for personal,  
14 commercial, municipal, or public collection, unless the solid waste  
15 is:

16           (1) containerized in a securely lidded, closed, sealed, or  
17 covered bulk container, disposable bag, receptacle, vehicle,  
18 watercraft, or other place safe from the elements; or

19           (2) not readily moveable by the elements, is not of a  
20 putrescible nature, and is containerized in a bulk container.

21           SECTION 32. SOLID WASTE STORAGE ORDINANCES. Counties may  
22 enact ordinances relating to personal, residential,  
23 multiresidential, commercial, and industrial nontoxic and  
24 nonhazardous solid waste on-site and off-site storage, retrieval  
25 and disposal.

26           SECTION 33. HEAVY TRASH STORAGE. A person commits an  
27 offense if that person stores or places out for personal,

1 commercial, municipal, or public collection heavy trash in a way  
2 that creates a public nuisance as defined under Chapter 178, Acts  
3 of the 49th Legislature, Regular Session, 1945, as amended (Article  
4 4477-1, Vernon's Texas Civil Statutes); Chapter 405, Acts of the  
5 61st Legislature, Regular Session, 1969, as amended (Article  
6 4477-7, Vernon's Texas Civil Statutes); and Chapter 784, Acts of  
7 the 62nd Legislature, Regular Session, 1971, as amended (Article  
8 6687-9, Vernon's Texas Civil Statutes).

9 SECTION 34. COVERING OF OPEN VEHICLES. (a) A county or  
10 city may enact ordinances to govern the containerization of  
11 open-bed truck loads that originate or terminate in that city or  
12 county.

13 (b) If a hauler is asked to document the point of origin or  
14 the designated off-loading point of a load carried on an open-bed  
15 truck but cannot document either, it is presumed that the load  
16 originated or is designated for off-loading in the city or county  
17 where the hauler is located when asked for the designation.

18 SECTION 35. ENFORCEMENT AUTHORITY. All law enforcement  
19 personnel, inspectors, and other designated personnel shall carry  
20 out the provisions of this Act and may issue citations for  
21 violations of this Act or any of the rules adopted under this Act.

22 SECTION 36. STRICT ENFORCEMENT. State, county, and local  
23 enforcement, inspection, and court officials shall strictly  
24 interpret, enforce, prosecute, and adjudicate state and local solid  
25 waste containerization, litter retrieval, and littering laws.

26 SECTION 37. INJUNCTIONS. (a) In addition to the remedies  
27 provided in this Act, if it appears that a person has violated or

1 is violating or is threatening to violate any provision of this Act  
2 or any rule adopted under this Act, the director may institute a  
3 civil suit in a district court for injunctive relief to restrain  
4 the person from continuing the violation or threat of violation.

5 (b) On application for injunctive relief and a finding that  
6 a person is violating or threatening to violate any provision of  
7 this Act or any rule adopted under this Act, the district court  
8 shall grant the injunctive relief the facts warrant.

9 SECTION 38. REQUIRING OFFENDERS TO PICK UP LITTER. A person  
10 convicted of violating a provision of this Act or of a Class C  
11 misdemeanor, in addition to other fines and penalties provided in  
12 this Act and by other law, may be ordered to pick up and remove  
13 litter from a public or private place under the supervision of the  
14 director or as the court provides for a period not to exceed eight  
15 hours for each offense. This provision does not diminish a court's  
16 authority to require a person found guilty of violating a provision  
17 of this Act or a similar county or municipal code to remove the  
18 litter that person caused or an equivalent amount or to pay for the  
19 removal of the litter that person caused or an equivalent amount.

20 SECTION 39. PENALTIES. (a) Except as otherwise provided by  
21 this section, if it be shown that a person has violated this Act,  
22 on conviction the defendant shall be punished by a fine of not less  
23 than \$25 nor more than \$200.

24 (b) If it be shown on the trial of a person for violation of  
25 this Act that the defendant has been once before convicted of a  
26 violation of this Act, on conviction the defendant shall be  
27 punished by a fine of not less than \$25 nor more than \$200,

1 imprisonment for not more than 30 days, and at the discretion of  
2 the judge, litter removal duty at a time and place designated by  
3 the judge for not less than 4 hours nor more than 8 hours.

4 (c) If it be shown on the trial of a person for violation of  
5 this Act that the defendant has been twice before convicted of a  
6 violation of this Act, on conviction the defendant shall be  
7 punished in the same manner as one who has been once before  
8 convicted of a violation of this Act, except the judge may sentence  
9 the defendant to pick up litter at a time and place designated by  
10 the judge for not less than 8 hours nor more than 40 hours.

11 SECTION 40. ARREST, NOTICE, AND PROSECUTION. (a) Except as  
12 provided by this Act, if a person is arrested for a violation of  
13 this Act, the officer shall determine the name and address of the  
14 person and issue a complaint, summons, or other notification  
15 requiring the person to appear at the time and place specified in  
16 the complaint or notice or to stop the activity that is in  
17 violation of this Act by the time specified in the complaint or  
18 notice.

19 (b) Where appearance is required, the time specified for  
20 appearance must be at least five days after the arrest or  
21 notification unless the person demands an earlier hearing.

22 (c) The officer shall release the person from custody after  
23 the person gives a written promise to appear at the time and place  
24 specified in the complaint or notice.

25 (d) A person who refuses to give a written promise to appear  
26 or fails to stop the activity that is in violation of this Act  
27 shall be prosecuted in the manner provided by the appropriate state

1 or local laws and ordinances.

2 (e) On the failure of a person to appear or offer evidence  
3 that the activity prohibited by this Act has been abated, the clerk  
4 of the court named in the summons, citation, or other notification  
5 shall summon the named person to appear in that court to answer the  
6 violation of this Act.

7 (f) Notwithstanding any other provision of this Act, if the  
8 violation of this Act is a first offense and the offender has given  
9 a written promise to appear in court or to stop the activity that  
10 is in violation of this Act, the offender may deliver the summons  
11 or notice and a fine of the amount specified by the summons or  
12 notice to the place and by the time designated.

13 (g) Notwithstanding any other provision of this Act, the  
14 provisions of Section 2.05, Penal Code, as amended, apply to a  
15 criminal prosecution under this Act.

16 SECTION 41. LITTER EXPENSE ACCOUNT. (a) The comptroller of  
17 public accounts shall create an account for use by state agencies  
18 and certain other entities to budget and account for expenditures  
19 for litter cleanup and the removal of illegally deposited solid  
20 waste.

21 (b) The comptroller shall develop and issue guidelines to  
22 determine which nonstate agencies are required to include the  
23 account in their financial reporting. The guidelines shall be  
24 based on the amount of annual state revenues that are received by  
25 the nonstate agencies.

26 SECTION 42. TRANSFER OF AUTHORITY. The governor may  
27 transfer the authority and responsibility for implementing the

1 provisions of this Act to any appropriate state agency, office, or  
2 authority.

3 SECTION 43. PREEMPTION OF CERTAIN LOCAL ORDINANCES. This  
4 Act preempts city and county ordinances that impose a tax, ban,  
5 mandatory deposit, or similar restriction or condition of sale on  
6 an item, product, package, container, or part of an item, product,  
7 package, or container.

8 SECTION 44. PREEMPTION OF CERTAIN LAWS AND REGULATIONS.  
9 This Act preempts any law that imposes a tax, ban, deposit,  
10 restriction, charge, or condition of sale or use, or tariff for  
11 usage of a tarp, net, similar covering, or parts of a tarp, net, or  
12 similar covering that is typically used to prevent the blowing,  
13 spilling, or other loss of loose material from the load-carrying  
14 bed of an open-bedded vehicle.

15 SECTION 45. EMERGENCY. The importance of this legislation  
16 and the crowded condition of the calendars in both houses create an  
17 emergency and an imperative public necessity that the  
18 constitutional rule requiring bills to be read on three several  
19 days in each house be suspended, and this rule is hereby suspended.

H. B. No. 1229

By *Boch Anderson*

A BILL TO BE ENTITLED  
AN ACT

relating to litter abatement and recycling; providing penalties.

**FEB 18 1981**

1. Filed with the Chief Clerk.

**FEB 19 1981**

2. Read first time and Referred to Committee on

*Environmental Affairs*

3. Reported \_\_\_ favorably (as amended) and sent to Printer at \_\_\_  
(as substituted)

4. Printed and distributed at \_\_\_\_\_

5. Sent to Committee on Calendars at \_\_\_\_\_

6. Read second time (amended); passed to third reading (failed) by (Non-Record Vote)  
(Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_  
present, not voting).

7. Motion to reconsider and table the vote by which H.B. \_\_\_\_\_ was ordered  
engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas,  
\_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed  
to suspend) by a four-fifths vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_  
present, not voting.

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote  
of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. \_\_\_\_\_ was finally passed  
prevailed (failed) by a (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_  
nays, and \_\_\_\_\_ present, not voting).

12. Ordered Engrossed at \_\_\_\_\_

13. Engrossed.

14. Returned to Chief Clerk at \_\_\_\_\_

15. Sent to Senate.

\_\_\_\_\_  
Chief Clerk of the House

16. Received from the House

17. Read, referred to Committee on \_\_\_\_\_

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read  
first time.

20. Ordered not printed.

21. Regular order of business suspended by  
(a viva voce vote.)

\_\_\_\_\_ 22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

\_\_\_\_\_ 23. Read second time \_\_\_\_\_ passed to third reading by:  
(a viva voce vote.)  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

\_\_\_\_\_ 24. Caption ordered amended to conform to body of bill.

\_\_\_\_\_ 25. Senate and Constitutional 3-Day Rules suspended by vote of \_\_\_\_\_ yeas,  
\_\_\_\_\_ nays to place bill on third reading and final passage.

\_\_\_\_\_ 26. Read third time and passed by  
(a viva voce vote.)  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

OTHER ACTION: OTHER ACTION:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_ 27. Returned to the House.

\_\_\_\_\_ 28. Received from the Senate (with amendments,  
as substituted.)

\_\_\_\_\_ 29. House (Concurred) (Refused to Concur) in Senate (Amendments)  
(Substitute) by a (Non-Record  
Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present,  
not voting).

\_\_\_\_\_ 30. Conference Committee Ordered.

\_\_\_\_\_ 31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record  
Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

\_\_\_\_\_ 32. Ordered Enrolled at \_\_\_\_\_