A BILL TO BE ENTITLED

AN ACT

relating to litter abatement and recycling; providing penalties.

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

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

SECTION 2. DEFINITIONS. In this Act:

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

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

(3) "Construction and demolition trash" means solid waste
that is generated at a construction or demolition site, including
bricks, lumber, Sheetrock, insulation scraps, and shingles or any
other materials or packaging generated at a construction or
demolition site.
(4) "Container" includes any bulk receptacle, disposable bag, litterbag, litter receptacle, or other receptacle.

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

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

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

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

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

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

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

(12) "Garbage" means any putrescible animal or plant matter, such as solid waste from kitchens, residences, grocery stores,
butcher shops, restaurants, hotels, and boarding houses.

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

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

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

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

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

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

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

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

(18) "Person" means an individual, corporation, partnership, organization, government or governmental subdivision or agency,
business trust, estate, trust, association, and any other legal
entity.

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

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

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

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

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

(24) "Recycling center" means a collection or processing
facility for recyclable materials within a community.
(25) "Refuse" means solid waste.

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

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

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

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

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

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

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

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

SECTION 4. DIVISION DUTIES. The Litter Abatement and
Recycling Support Division shall:

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

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

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

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

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

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

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

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

(5) encourage state and local agencies to cooperate with and aid litter abatement, source separation, and recycling programs, by means such as providing publicity and allowing use of publicly owned land, buildings, and equipment for litter abatement and recycling efforts;
(6) investigate the availability of, apply for, receive, and spend grants, gifts, donations, loan proceeds, or other funds available from any public or private source and solicit and accept nonmonetary support in the form of services, materials, and equipment for use in connection with any of the programs authorized under this Act;

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

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

(9) certify vehicle covering devices.

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

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

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

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

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

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

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

(4) encourage voluntary local antilitter and prorecycling campaigns;

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

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

(7) design a state antilitter and prorecycling symbol;

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

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

(10) work with the Texas Department of Highways and Public Transportation, the Texas Department of Health, and the Parks and Wildlife Department to improve and increase the number of antilittering signs and litter receptacles on and near state and
county highways, rights-of-way, public land, and public water;

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

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

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

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

(13) aid the Central Education Agency in developing:

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

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

(C) within six months after the final release by Keep
America Beautiful of its litter abatement and recycling instructional material, recommendations for optional or required use of the material in grades 7 through 12 of the public elementary and secondary schools;

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

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

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

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

(1) a retail merchant;
(2) a manufacturer;
(3) a soft drink bottler;
(4) a wholesale beer distributor;
(5) an owner of a retail liquor store;
(6) a representative of recycling collection centers;
(7) a representative of recycling processing centers;
(8) a representative of environmental protection groups;
(9) a representative of labor;
(10) a representative of the Texas Municipal League;
(11) a member of the Texas Association of County Officials;
(12) a representative of the Agricultural Extension Service;
(13) a representative of the cattle industry;
(14) a member of the association of police chiefs;
(15) a member of the general contractors association;
(16) a home builder;
(17) a representative of the trucking industry;
(18) a representative of the Texas Clean Community System community programs; and
(19) seven members of the general public.

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

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

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

SECTION 10. COMMISSION DUTIES. (a) The commission shall:
(1) adopt criteria that state and local governmental agencies and nonprofit corporations must meet to be certified under the antilitter and prorecycling investment tax credit provisions of this Act;
(2) hold at least one regular meeting every three months and special meetings called by the chairman or by a majority of commission members; and
(3) elect officers annually, including a chairman, vice-chairman, and secretary.

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

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

(1) publicity campaigns to build and sustain public awareness of the problem of litter;
(2) efforts to stimulate community pride;
(3) efforts to gain a better understanding of the causes of littering;
(4) efforts to increase funds for litter cleanup and collection;
(5) stricter enforcement of litter control and reduction laws to increase voluntary compliance with these laws; and
(6) encouragement and funding of source separation and materials recycling programs and of research relating to resource separation and recovery to foster reuse of materials and savings of resources and energy.

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

(1) preference shall be given to a Clean Community System program that has been certified by Keep America Beautiful, Incorporated;
(2) secondary preference shall be given to a program that
can document that it is implementing or intends to implement the
Positive Litter Reduction program of the United States Brewer's
Association; and

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

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

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

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

SECTION 14. CERTIFICATION GUIDELINES FOR RECYCLING PROGRAMS.
(a) To be certified, a recycling program must:
(1) be modeled after the organization of the Beverage
Industry Recycling Program of Arizona as that program existed on
the effective date of this Act;
(2) submit evidence of plans to initiate activities or expand on present efforts; and

(3) be able to offer substantial proof that:

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

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

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

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

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

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

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

SECTION 15. ADDITIONAL CERTIFICATION GUIDELINE. First preference for certification shall be given to those recycling programs that propose to integrate, directly or by cooperative arrangements with existing local efforts, all litter abatement, beautification, and recycling activities in one unified effort.
SECTION 16. CORPORATE FRANCHISE TAX CREDIT. (a) A domestic or foreign corporation liable for payment of Texas corporate franchise taxes that makes a cash contribution to a division-certified litter abatement or recycling program may claim a corporate franchise tax credit equal to 100 percent of the cash contribution up to the total amount of franchise taxes due.

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

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

(d) A domestic or foreign corporation liable for payment of Texas corporate franchise taxes that invests in fixed assets as a part of any division-certified recycling processing center may claim a corporate franchise tax credit not to exceed the lesser of 33-1/3 percent of those expenditures or $20,000 in each of three consecutive tax years. Purchases of both new and used equipment are eligible for this credit.
(e) A domestic or foreign corporation liable for payment of Texas corporate franchise taxes that makes investments in recycling, collection, or processing center fixed assets and qualifies for tax credits under this section and immediately gives or loans the newly purchased acquisitions to a division-approved governmental or nonprofit, charitable litter abatement recycling program without restriction and in perpetuity shall qualify for the tax credits in this section as if the corporation or person had qualified under Subsections (b), (c), and (d) of this section. Purchasers of new and used equipment are eligible for this credit.

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

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

1. the activities of and services provided by the division;
2. the activities of and progress achieved by governmental or community level programs throughout the state in decreasing littering and litter accumulation;
3. the activities of and progress achieved by governmental and community level programs throughout the state in realizing sustained increases in source separation and recycling activities;
4. the achievements of division-certified programs that receive 15 percent or more of their revenue in cash contributions from an individual or corporation claiming antilitter and
prorecycling investment tax credits;

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

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

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

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

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

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

SECTION 20. REPORTING LITTERING. (a) A person who
witnesses an item exiting from or parting from a vehicle,
watercraft, or offshore structure may report the approximate date, 
time, and location of the event, the license plate registration 
number, and the state of registration to an appropriate law 
enforcement authority. A report stating that litter exited from a 
particular vehicle and documenting the license plate registration 
number and the state of registration of the vehicle is, in the 
absence of controverting evidence, sufficient to support a finding 
of fact and judgment that the owner of the vehicle personally or 
through an agent, employee, or other assignee failed to properly 
containerize exiting solid waste.

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

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

SECTION 21. RESPONSIBILITY FOR RETRIEVING LITTER. (a) A 
person who owns property commits an offense if that person allows
litter to remain on his or her residential, multiresidential, commercial, industrial, or unimproved property for more than 24 hours.

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

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

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

SECTION 23. PRESCRIPTION CONCERNING ILLEGAL DUMPING. If an object of litter is on public or private property or water and the object of litter bears the name of a person other than the name of the property owner, that is, in the absence of controverting evidence, sufficient to support a finding of fact and judgment that the person whose name appears on the object caused or allowed it to be there without the property owner's permission, unless the property is an authorized waste disposal site.
SECTION 24. ILLEGALLY PLACED SIGNS. (a) A person commits an offense if that person places or paints a sign or poster on public land or water or on the property of another without the owner's consent or allows the placement or fails to exercise reasonable care to prevent placement by another.

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

(c) The person or firm named on a sign that is illegally placed may be notified in writing of the location of the sign by an authorized enforcement agency and shall be given not less than three business days to remove the sign and to offer a written statement in person or by mail swearing that the sign has been removed. A person who is notified to remove a sign commits an offense if that person fails to timely remove a sign or fails to inform the appropriate authority that the sign has been removed.
(d) Local governmental officers and entities may grant an exception to this section. The exception expires 90 days after it is issued unless it is reissued for an additional 90 days.

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

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

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

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

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

SECTION 28. NUMBER AND PLACEMENT OF LITTER RECEPTACLES. (a) Banks, bank drive-ins, and automated teller locations shall have no
fewer than the following number of receptacles: one for each exit or entrance at a bank building, but not fewer than two for each building, one for each drive-in lane, and one for each unmanned, automated teller service location.

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

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

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

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

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

(g) Convenience food stores and supermarkets shall have no
fewer than the following number of receptacles: one for each separate entrance or exit and one in each parking area.

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

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

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

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

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

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

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

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

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

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

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

(s) A sidewalk adjacent to a business establishment shall have no fewer than the following number of receptacles: one for each 100 frontage feet or fraction of 100 frontage feet.
(t) Shopping centers, malls, and related parking lots for public use shall have no fewer than the following number of receptacles: for each shopping center, mall, and related parking lot for public use receptacles to be placed so that there is one for each 200 feet of shopping center site frontage, or fraction of 200 feet of frontage or 200 feet of leasable store frontage, whichever is greater and to be located along pedestrian passage routes normally taken by persons using the shopping center or mall.

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

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

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

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

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

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

(5) serviced with sufficient frequency to prevent spillage from overflow and to prevent offensive buildup of odors; and
(6) maintained in a way to present an aesthetically pleasing appearance.

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

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

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

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

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

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

SECTION 33. HEAVY TRASH STORAGE. A person commits an offense if that person stores or places out for personal,
commercial, municipal, or public collection heavy trash in a way
that creates a public nuisance as defined under Chapter 178, Acts
of the 49th Legislature, Regular Session, 1945, as amended (Article
4477-1, Vernon's Texas Civil Statutes); Chapter 405, Acts of the
61st Legislature, Regular Session, 1969, as amended (Article
4477-7, Vernon's Texas Civil Statutes); and Chapter 784, Acts of
the 62nd Legislature, Regular Session, 1971, as amended (Article
6687-9, Vernon's Texas Civil Statutes).

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

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

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

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

SECTION 37. INJUNCTIONS. (a) In addition to the remedies
provided in this Act, if it appears that a person has violated or
is violating or is threatening to violate any provision of this Act or any rule adopted under this Act, the director may institute a civil suit in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation.

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

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

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

(b) If it be shown on the trial of a person for violation of this Act that the defendant has been once before convicted of a violation of this Act, on conviction the defendant shall be punished by a fine of not less than $25 nor more than $200.
imprisonment for not more than 30 days, and at the discretion of
the judge, litter removal duty at a time and place designated by
the judge for not less than 4 hours nor more than 8 hours.

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

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

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

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

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

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

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

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

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

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

SECTION 42. TRANSFER OF AUTHORITY. The governor may transfer the authority and responsibility for implementing the
provisions of this Act to any appropriate state agency, office, or authority.

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

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

SECTION 45. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.
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
   (as amended)
   (as substituted)
   and sent to Printer at

3. Reported __ favorably (as amended) and sent to Printer at

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.

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) vote of ________ 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) vote of ________ yeas, ________ nays.

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 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 ________________________