

Law Enforcement Session

Environmental Law Enforcement in Georgia

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Abstract: As the environment continues to change, so does conservation law enforcement. Today's conservation ranger has a diversified list of duties and serves more than just the hunter and fisher. In order to protect the environment, enforceable environmental laws are necessary to insure the safety of the habitat which we share with our wildlife. Georgia's Waste Control Law, Official Code of Georgia Annotated (OCGA) 16-7-50 (5 Apr 1993), gave Georgia's 40,000 law enforcement officers statutes to meet this need. As we enter the new millennium, we will see the increasing importance of protecting the environment. As political awareness aims at polluters, we too should be on the front line waging war against crimes that destroy the environment that wildlife and mankind depend on. The following outlines the creation and implementation of a law designed to stop the people that commit these crimes.

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The state of Georgia, like most southeastern states, is suffering from severe blows to its ecosystem. This damage inflicted on the environment affects man, wildlife, and the future health of the environment. Industry, automobile emissions, loss of green space, and illegal dumping are just a few of the factors adversely affecting this growing problem. As wildlife agencies nationwide address the problem of a drop in license sales, we need to work hard to protect what suitable wildlife habitat that remains. Also, the need for environmental law enforcement is a task that fits easily into our job description.

Prior to 1993, enforcement of environmental crimes was left primarily to the Environmental Protection Division (EPD) of the Georgia Department of Natural Resources (DNR). Environmental laws were complex, required much technical data for prosecution and, due to technical and expense factors, seldom proved to be an effective deterrent. Rather than proceed with prosecution of a case the officer was not educated in, a case was usually dropped or handled with ineffective ordinances or littering citations. Seeing the ineffectiveness of existing laws, new laws were needed. Civic groups such as "Keep Georgia Beautiful" and "Georgia Clean and Beautiful Commission" contacted state senators and representatives. These groups were instrumental in pointing out a need, and the legislators had a sympathetic ear.

Methods

Developing an Enforceable Law

Prior to 1993, existing environmental laws were difficult to enforce. Georgia needed a simple yet effective law. Lawmakers gave many opportunities for departmental input. During the drafting of the law, enforcement officers' recommendations were taken into consideration since they were the ones responsible for enforcing the final law. Biologists, chemists, and environmental engineers from EPD provided technical expertise. After running the political obstacles, a workable law was the outcome. The once-complicated laws requiring analytical data and scientific testimony for prosecution were now simplified laws a layman could understand. Along with this simplicity came more violations taken to the courts and more fines acting as a deterrent.

The Georgia Litter Control Law

Georgia has a litter control law which deals with simple, non-commercial, every day littering. Violation of the law is a misdemeanor and carries fines of up to \$1,000 and/or up to 12 months in jail. Normally, a fine levied for the offense is \$100 to \$250. In the past, the law was inappropriately used on many environmental violations due to the fact that many law enforcement officers were neither aware of nor trained in the complicated Georgia Comprehensive Solid Waste Management Act or the Georgia Air Quality Act. Remember that these were the complicated and technical laws that required scientific technical data for prosecution. Commercial violators realized it was cheaper to get caught dumping illegally than to pay for the rising cost to dispose of waste at a permitted site. Even the fear of being caught was minor since illegal dumping was done in remote areas away from the law.

Since 1993, Georgia's waste control law has distinguished "less serious" pollution, i.e., non-commercial, non-hazardous, and low volume, from more serious pollutants. Low volume is described as <10 pounds in weight or <15 cubic feet in volume and is covered under the litter law. More damaging violations, i.e., >10 pounds in weight or >15 cubic feet in volume, any such substance in any weight or volume if biomedical waste, hazardous waste, a hazardous substance, or any such substance or material dumped for commercial purposes, are covered under the new waste act.

The waste act carries a tiered fine system. Any person who dumps waste <500 pounds in weight or <100 cubic feet in volume which is not biomedical waste, hazardous waste, or hazardous substance and not for commercial purposes shall be guilty of a misdemeanor of a high and aggravated nature. Any person who dumps waste >500 pounds in weight or >100 cubic feet in volume not for commercial purposes shall upon the first offense be guilty of a misdemeanor of a high and aggravated nature and shall upon the second and each subsequent offense be guilty of a felony. These violations carry fines of up to \$25,000 per day and up to 2 years in prison.

Any violation of the waste act done for commercial purposes (for economic gain) or if it contains biomedical waste, hazardous waste or hazardous substance, results in a felony violation. The law also stipulates that each day a continuing violation occurs shall constitute a separate violation.

One of the major accomplishments of the Georgia Waste Control Law is its simplicity. Definitions are simple. The definition of "dump" is outlined in the law as to throw, discard, place, deposit, discharge, burn, or dispose of a substance. Placing the word burn in the definition eliminated the need for certain analytical data and testimony in clean air act violations. Now, if an officer witnesses a burn, the crime is covered under this title. In the past, a technician with complicated, expensive air monitoring equipment would have to be brought to the scene to gather proof of violating the clean air act.

A prima-facie evidence provision is in Georgia's law. This states that, "Whenever any waste dumped in violation of Code Section 16-7-52 is discovered to contain any article or articles, including but not limited to letters, bills, publications, or other writings which display the name of a person thereon, addressed to such person or in any other manner indicating that the article belongs or belonged to such person, it shall be a rebuttable presumption that such person has violated this part." This allows the officer another opportunity to prosecute environmental cases through investigations.

Implementation and Enforcement

The law allows for every law enforcement agency in the state to have the full authority to enforce all statutes. In the spirit of the law, emphasis is placed toward commercial and repeat violators. Officer discretion along with common sense and fairness is encouraged in the application of this law. Education and awareness is key in gaining support from the public and the judicial community. There are numerous civic groups with anti-litter and pollution campaigns. A list of these groups and individuals is available through "The Environmental Address Book" (Levine 1991). These movements are important to officers in gaining the support needed to bring these cases to court. Once these messages are spread through media and civic groups, a state agency can take charge in cracking down on the violators of crimes against the environment.

Training the Troops

As awareness of Georgia's law grew, so did the request for training. Several Georgia DNR instructors attended specialized training. This training, presented by the U.S. Environmental Protection Agency, office of Criminal Enforcement, educated instructors to a level which better enabled them, in turn, to train officers. State-wide, DNR trained all of their rangers in the enforcement of the 1993 environmental law. Since 1994, all new rangers attending basic training have received this book of instruction. Many proactive departments have included environmental crimes training as part of in-service training.

Continued enlightenment and popularity of the law has spread. During the 1998 legislative session, DNR representatives and key public and private officials met at the state capitol. The agenda of the meeting was Georgia's Waste Control Law. Those present were senators, state representatives, executive leaders with Keep Georgia

Beautiful, DNR rangers, and members from Georgia's Peace Officers' Standards and Training Council. Following presentations from each group, the public safety council steering committee decided to change Georgia's basic mandate training to include a block of instruction entitled "Crimes Against the Environment." Effective 1 January 1999, all officers attending basic peace officer training will receive training in this field. It is important to note that the driving force behind Georgia's environmental law, the training of officers, and the recent inclusion of this training to all Georgia officers was a private group of citizens.

Conclusion

As we embark on the difficult task of fish and wildlife management in the new millennium, it is of the utmost importance for all agencies to evaluate the part they play in environmental law enforcement. Resisting change in a changing environment could mean the death of an agency. Many of today's wildlife agencies get much needed funds from federally funded boating safety and hunter safety programs. Game management divisions are greatly dependent on federal funds for their existence. These programs have been the staples that have kept our agencies alive. The past leaders of our departments saw a way to increase funding by increasing our responsibilities. Had they not made those decisions, where would we be today? As we study to find the reason why there are less and less interests in hunting and fishing, perhaps we should look into the protection of our natural resources. If we do not protect the habitat of our fish and wildlife, there will not be any safe places left for them or us to live. All conservation rangers have accepted an oath and with that oath comes a solemn trust placed in us by the citizens whom we serve. Every citizen and the wildlife we are sworn to protect have the right to clean air, water, and a safe environment in which to live. If we do not protect the environment, who will?

Literature Cited

Levine, M. 1991. *The Environmental Address Book*. Putman Publ., New York. 23pp.