

2 **SSB 6194** - H COMM AMD **ADOPTED 3-3-00**
3 By Committee on Natural Resources

4
5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 70.93.030 and 1998 c 257 s 3 are each amended to read
8 as follows:

9 As used in this chapter unless the context indicates otherwise:

- 10 (1) "Conveyance" means a boat, airplane, or vehicle;
11 (2) "Department" means the department of ecology;
12 ~~((+2))~~ (3) "Director" means the director of the department of
13 ecology;
14 ~~((+3))~~ (4) "Disposable package or container" means all packages or
15 containers defined as such by rules and regulations adopted by the
16 department of ecology;
17 ~~((+4))~~ (5) "Junk vehicle" has the same meaning as defined in RCW
18 46.55.010;
19 (6) "Litter" means all waste material including but not limited to
20 disposable packages or containers thrown or deposited as herein
21 prohibited and solid waste that is illegally dumped, but not including
22 the wastes of the primary processes of mining, logging, sawmilling,
23 farming, or manufacturing;
24 ~~((+5))~~ (7) "Litter bag" means a bag, sack, or other container made
25 of any material which is large enough to serve as a receptacle for
26 litter inside the vehicle or watercraft of any person. It is not
27 necessarily limited to the state approved litter bag but must be
28 similar in size and capacity;
29 ~~((+6))~~ (8) "Litter receptacle" means those containers adopted by
30 the department of ecology and which may be standardized as to size,
31 shape, capacity, and color and which shall bear the state anti-litter
32 symbol, as well as any other receptacles suitable for the depositing of
33 litter;
34 ~~((+7))~~ (9) "Person" means any political subdivision, government
35 agency, municipality, industry, public or private corporation,

1 copartnership, association, firm, individual, or other entity
2 whatsoever;

3 ~~((+8))~~ (10) "Public place" means any area that is used or held out
4 for use by the public whether owned or operated by public or private
5 interests;

6 (11) "Recycling" means transforming or remanufacturing waste
7 materials into a finished product for use other than landfill disposal
8 or incineration;

9 ~~((+9))~~ (12) "Recycling center" means a central collection point
10 for recyclable materials;

11 ~~((+10))~~ (13) "To litter" means a single or cumulative act of
12 disposing of litter;

13 (14) "Vehicle" includes every device capable of being moved upon a
14 public highway and in, upon, or by which any persons or property is or
15 may be transported or drawn upon a public highway, excepting devices
16 moved by human or animal power or used exclusively upon stationary
17 rails or tracks;

18 ~~((+11))~~ (15) "Waste reduction" means reducing the amount or
19 toxicity of waste generated or reusing materials;

20 ~~((+12))~~ (16) "Watercraft" means any boat, ship, vessel, barge, or
21 other floating craft(

22 ~~(13) "Public place" means any area that is used or held out for use~~
23 ~~by the public whether owned or operated by public or private~~
24 ~~interests)).~~

25 **Sec. 2.** RCW 70.93.060 and 1997 c 159 s 1 are each amended to read
26 as follows:

27 (1) It is a violation of this section to abandon a junk vehicle
28 upon any property located in an unincorporated area of a county. In
29 addition, no person shall throw, drop, deposit, discard, or otherwise
30 dispose of litter upon any public property in the state or upon private
31 property in this state not owned by him or her or in the waters of this
32 state whether from a vehicle or otherwise including but not limited to
33 any public highway, public park, beach, campground, forest land,
34 recreational area, trailer park, highway, road, street, or alley
35 except:

36 (a) When the property is designated by the state or its agencies or
37 political subdivisions for the disposal of garbage and refuse, and the
38 person is authorized to use such property for that purpose;

1 (b) Into a litter receptacle in a manner that will prevent litter
2 from being carried away or deposited by the elements upon any part of
3 said private or public property or waters.

4 (2)(a) Except as provided in subsection (4) of this section, it is
5 a class 3 civil infraction as provided in RCW 7.80.120 for a person to
6 litter in an amount less than or equal to one cubic foot.

7 (b) It is a class 1 civil infraction as provided in RCW 7.80.120
8 for a person to litter in an amount greater than one cubic foot in an
9 incorporated area of a county. Unless suspended or modified by a
10 court, the person shall also pay a litter cleanup fee of twenty-five
11 dollars per cubic foot of litter. The court may, in addition to or in
12 lieu of part or all of the cleanup fee, order the person to pick up and
13 remove litter from the property, with prior permission of the legal
14 owner or, in the case of public property, of the agency managing the
15 property.

16 (c) It is a misdemeanor for a person to litter in an amount greater
17 than one cubic foot but less than five cubic yards in an unincorporated
18 area of a county. The person shall also pay a litter cleanup
19 restitution payment equal to twice the actual cost of cleanup, or fifty
20 dollars per cubic foot of litter, whichever is greater. The court
21 shall distribute one-half of the restitution payment to the landowner
22 and one-half of the restitution payment to the law enforcement agency
23 investigating the incident. The court may, in addition to or in lieu
24 of part or all of the cleanup restitution payment, order the person to
25 pick up and remove litter from the property, with prior permission of
26 the legal owner or, in the case of public property, of the agency
27 managing the property.

28 (d) It is a gross misdemeanor for a person to litter in an amount
29 of five cubic yards or more in an unincorporated area of a county. The
30 person shall also pay a litter cleanup restitution payment equal to
31 twice the actual cost of cleanup, or one hundred dollars per cubic foot
32 of litter, whichever is greater. The court shall distribute one-half
33 of the restitution payment to the landowner and one-half of the
34 restitution payment to the law enforcement agency investigating the
35 incident. The court may, in addition to or in lieu of part or all of
36 the cleanup restitution payment, order the person to pick up and remove
37 litter from the property, with prior permission of the legal owner or,
38 in the case of public property, of the agency managing the property.

1 (e) If a junk vehicle is abandoned in violation of this section,
2 RCW 46.55.230 governs the vehicle's removal, disposal, and sale, and
3 the penalties that may be imposed against the person who abandoned the
4 vehicle.

5 (3) If the violation occurs in a state park, the court shall, in
6 addition to any other penalties assessed, order the person to perform
7 twenty-four hours of community service in the state park where the
8 violation occurred if the state park has stated an intent to
9 participate as provided in RCW (~~(43.51.048(2))~~) 79A.05.050.

10 (4) It is a class 1 civil infraction as provided in RCW 7.80.120
11 for a person to discard, in violation of this section, a cigarette,
12 cigar, or other tobacco product that is capable of starting a fire.

13 NEW SECTION. Sec. 3. A new section is added to chapter 70.93 RCW
14 to read as follows:

15 (1) Upon the arrest of a person or upon the filing of a complaint,
16 citation, or information in a court of competent jurisdiction, a peace
17 officer specified under RCW 9A.04.110 may seize without warrant
18 vehicles, conveyances, gear, appliances, or any other items or articles
19 they have probable cause to believe have been used in violation of RCW
20 70.93.060(2)(d) or 70.95.240(2)(d). However, a peace officer may not
21 seize any item or article, other than for evidence, if under the
22 circumstances it is reasonable to conclude that the violation was
23 inadvertent. The property seized is subject to forfeiture to the
24 enforcement agency that seized the property under this section, and is
25 limited to property owned by the person charged with the violation
26 except where specifically provided in this section. Property seized
27 may be recovered by its owner by depositing into court a cash bond
28 equal to the value of the seized property but not more than twenty-five
29 thousand dollars. Such cash bond is subject to forfeiture in lieu of
30 the property. Forfeiture of property seized under this section is a
31 civil forfeiture against property intended to be a remedial civil
32 sanction.

33 (2) In the event of a seizure of property under this section,
34 jurisdiction to begin the forfeiture proceedings shall commence upon
35 seizure. Within fifteen days following the seizure, the seizing
36 authority shall serve a written notice of intent to forfeit property on
37 the owner of the property seized and on any person having any known
38 right or interest in the property seized. Notice may be served by any

1 method authorized by law or court rule, including service by certified
2 mail with return receipt requested. Service by mail is deemed complete
3 upon mailing within the fifteen-day period following the seizure.

4 (3) Persons claiming a right of ownership or right to possession of
5 property are entitled to a hearing to contest forfeiture. Such a claim
6 shall specify the claim of ownership or possession and shall be made in
7 writing and served on the director within forty-five days of the
8 seizure. If the seizing authority has complied with notice
9 requirements and there is no claim made within forty-five days, then
10 the property shall be forfeited to the agency that seized the property.

11 (4) If any person timely serves the administrative head of the
12 enforcement agency that seized the property with a claim to property,
13 the person shall be afforded an opportunity to be heard as to the
14 person's claim or right. The hearing shall be before the administrator
15 or the administrator's designee, or before an administrative law judge
16 appointed under chapter 34.12 RCW, except that a person asserting a
17 claim or right may remove the matter to a court of competent
18 jurisdiction if the aggregate value of the property seized is more than
19 five thousand dollars.

20 (5) The hearing to contest forfeiture and any subsequent appeal
21 shall be as provided for in Title 34 RCW. The seizing authority has
22 the burden to demonstrate that it had reason to believe the property
23 was held with intent to violate or was used in violation of RCW
24 70.93.060(2)(d) or 70.95.240(2)(d). The person contesting forfeiture
25 has the burden of production and proof by a preponderance of evidence
26 that the person owns or has a right to possess the property and:

27 (a) That the property was not held with intent to violate or used
28 in violation of RCW 70.93.060(2)(d) or 70.95.240(2)(d); or

29 (b) If the property is a conveyance, that the illegal use or
30 planned illegal use of the conveyance occurred without the owner's
31 knowledge or consent, or that the owner acted reasonably to prevent
32 illegal uses of the conveyance.

33 (6) A forfeiture of a conveyance encumbered by a perfected security
34 interest is subject to the interest of the secured party if the secured
35 party neither had knowledge of nor consented to the act or omission.
36 No security interest in seized property may be perfected after seizure.
37 A person whose conveyance is subject to forfeiture under this section
38 is prohibited from encumbering, selling, or transferring his or her

1 interest in the conveyance, except as provided in RCW 46.61.5058(1)
2 (a), (b), and (c).

3 (7) If seized property is forfeited under this section, the
4 enforcement agency may, after full satisfaction of any security
5 interest encumbering the property, retain it for official use unless
6 the property is required to be destroyed, or upon application by any
7 law enforcement agency of the state, release such property to the
8 agency for the use of enforcing the criminal law, or sell such
9 property, and retain the net proceeds and use the proceeds to expand
10 and improve the enforcement agency's litter control activity. Money
11 retained under this section may not be used to supplant preexisting
12 funding sources.

13 **Sec. 4.** RCW 70.95.240 and 1998 c 36 s 19 are each amended to read
14 as follows:

15 (1) After the adoption of regulations or ordinances by any county,
16 city, or jurisdictional board of health providing for the issuance of
17 permits as provided in RCW 70.95.160, it shall be unlawful for any
18 person to dump or deposit or permit the dumping or depositing of any
19 solid waste onto or under the surface of the ground or into the waters
20 of this state except at a solid waste disposal site for which there is
21 a valid permit. This section does not:

22 (a) Prohibit a person from dumping or depositing solid waste
23 resulting from his or her own activities onto or under the surface of
24 ground owned or leased by him or her when such action does not violate
25 statutes or ordinances, or create a nuisance;

26 (b) Apply to a person using a waste-derived soil amendment that has
27 been approved by the department under RCW 70.95.205; or

28 (c) Apply to the application of commercial fertilizer that has been
29 registered with the department of agriculture as provided in RCW
30 15.54.325, and that is applied in accordance with the standards
31 established in RCW 15.54.800(3).

32 (2)(a) It is a class 3 civil infraction as defined in RCW 7.80.120
33 for a person to litter in an amount less than or equal to one cubic
34 foot.

35 (b) It is a class 1 civil infraction as defined in RCW 7.80.120 for
36 a person to litter in an amount greater than one cubic foot in an
37 unincorporated area of a county. Unless suspended or modified by a
38 court, the person shall also pay a litter cleanup fee of twenty-five

1 dollars per cubic foot of litter. The court may, in addition to or in
2 lieu of part or all of the cleanup fee, order the person to pick up and
3 remove litter from the property, with prior permission of the legal
4 owner or, in the case of public property, of the agency managing the
5 property.

6 (c) It is a misdemeanor for a person to litter in an amount greater
7 than one cubic foot but less than five cubic yards in an unincorporated
8 area of a county. The person shall also pay a litter cleanup
9 restitution payment equal to twice the actual cost of cleanup, or fifty
10 dollars per cubic foot of litter, whichever is greater. The court
11 shall distribute one-half of the restitution payment to the landowner
12 and one-half of the restitution payment to the jurisdictional health
13 department investigating the incident. The court may, in addition to
14 or in lieu of part or all of the cleanup restitution payment, order the
15 person to pick up and remove litter from the property, with prior
16 permission of the legal owner or, in the case of public property, of
17 the agency managing the property.

18 (d) It is a gross misdemeanor for a person to litter in an amount
19 of five cubic yards or more in an unincorporated area of a county. The
20 person shall also pay a litter cleanup restitution payment equal to
21 twice the actual cost of cleanup, or one hundred dollars per cubic foot
22 of litter, whichever is greater. The court shall distribute one-half
23 of the restitution payment to the landowner and one-half of the
24 restitution payment to the jurisdictional health department
25 investigating the incident. The court may, in addition to or in lieu
26 of part or all of the cleanup restitution payment, order the person to
27 pick up and remove litter from the property, with prior permission of
28 the legal owner or, in the case of public property, of the agency
29 managing the property. A violation of this subsection (2)(d) may
30 result in the seizure and forfeiture of property in accordance with the
31 procedures established in section 3 of this act.

32 (e) If a junk vehicle is abandoned in violation of this chapter,
33 RCW 46.55.230 governs the vehicle's removal, disposal, and sale, and
34 the penalties that may be imposed against the person who abandoned the
35 vehicle.

36 **Sec. 5.** RCW 46.55.230 and 1991 c 292 s 2 are each amended to read
37 as follows:

1 (1) Notwithstanding any other provision of law, any law enforcement
2 officer having jurisdiction, or any employee or officer of a
3 jurisdictional health department acting pursuant to RCW 70.95.240, or
4 any person authorized by the director shall inspect and may authorize
5 the disposal of an abandoned junk vehicle. The person making the
6 inspection shall record the make and vehicle identification number or
7 license number of the vehicle if available, and shall also verify that
8 the approximate value of the junk vehicle is equivalent only to the
9 approximate value of the scrap in it.

10 (2) The law enforcement officer or department representative shall
11 provide information on the vehicle's registered and legal owner to the
12 landowner.

13 (3) Upon receiving information on the vehicle's registered and
14 legal owner, the landowner shall mail a notice to the registered and
15 legal owners shown on the records of the department. The notification
16 shall describe the redemption procedure and the right to arrange for
17 the removal of the vehicle.

18 (4) If the vehicle remains unclaimed more than fifteen days after
19 the landowner has mailed notification to the registered and legal
20 owner, the landowner may dispose of the vehicle or sign an affidavit of
21 sale to be used as a title document.

22 (5) If no information on the vehicle's registered and legal owner
23 is found in the records of the department, the landowner may
24 immediately dispose of the vehicle or sign an affidavit of sale to be
25 used as a title document.

26 (6)(a) It is a class 1 civil infraction as defined in RCW 7.80.120
27 for a person to abandon a junk vehicle on property located in an
28 incorporated area. If a junk vehicle is abandoned in an incorporated
29 area, the landowner of the property upon which the junk vehicle is
30 located is entitled to recover from the vehicle's registered owner any
31 costs incurred in the removal of the junk vehicle.

32 (b) It is a misdemeanor for a person to abandon a junk vehicle on
33 property located in an unincorporated area. If a junk vehicle is
34 abandoned in an unincorporated area, the vehicle's registered owner
35 shall also pay a cleanup restitution payment equal to twice the costs
36 incurred in the removal of the junk vehicle. The court shall
37 distribute one-half of the restitution payment to the landowner of the
38 property upon which the junk vehicle is located, and one-half of the

1 restitution payment to the law enforcement agency or jurisdictional
2 health department investigating the incident.

3 (7) For the purposes of this section, the term "landowner" includes
4 a legal owner of private property, a person with possession or control
5 of private property, or a public official having jurisdiction over
6 public property.

7 (8) A person complying in good faith with the requirements of this
8 section is immune from any liability arising out of an action taken or
9 omission made in the compliance.

10 NEW SECTION. **Sec. 6.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected."

14 Correct the title.

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