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SENATE BILL 6194

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State of Washington

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2000 Regular Session

By Senators T. Sheldon, Oke, Jacobsen, Stevens, Morton, Rasmussen, Gardner and Spanel

Read first time 01/10/2000. Referred to Committee on Natural Resources, Parks & Recreation.

1 AN ACT Relating to unlawful rural garbage disposal; amending RCW  
2 70.93.030 and 70.93.060; adding a new section to chapter 70.93 RCW; and  
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 70.93.030 and 1998 c 257 s 3 are each amended to read  
6 as follows:

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

8 (1) "Department" means the department of ecology;

9 (2) "Director" means the director of the department of ecology;

10 (3) "Disposable package or container" means all packages or  
11 containers defined as such by rules and regulations adopted by the  
12 department of ecology;

13 (4) "Hazardous substance" has the same meaning as the term is  
14 defined in either RCW 70.95C.020, or RCW 70.105.010, or both;

15 (5) "Litter" means all waste material including but not limited to  
16 disposable packages or containers thrown or deposited as herein  
17 prohibited and solid waste that is illegally dumped, but not including  
18 the wastes of the primary processes of mining, logging, sawmilling,  
19 farming, or manufacturing;

1       (~~(5)~~) (6) "Litter bag" means a bag, sack, or other container made  
2 of any material which is large enough to serve as a receptacle for  
3 litter inside the vehicle or watercraft of any person. It is not  
4 necessarily limited to the state approved litter bag but must be  
5 similar in size and capacity;

6       (~~(6)~~) (7) "Litter receptacle" means those containers adopted by  
7 the department of ecology and which may be standardized as to size,  
8 shape, capacity, and color and which shall bear the state anti-litter  
9 symbol, as well as any other receptacles suitable for the depositing of  
10 litter;

11       (~~(7)~~) (8) "Person" means any political subdivision, government  
12 agency, municipality, industry, public or private corporation,  
13 copartnership, association, firm, individual, or other entity  
14 whatsoever;

15       (~~(8)~~) (9) "Recycling" means transforming or remanufacturing waste  
16 materials into a finished product for use other than landfill disposal  
17 or incineration;

18       (~~(9)~~) (10) "Recycling center" means a central collection point  
19 for recyclable materials;

20       (~~(10)~~) (11) "Vehicle" includes every device capable of being  
21 moved upon a public highway and in, upon, or by which any persons or  
22 property is or may be transported or drawn upon a public highway,  
23 excepting devices moved by human or animal power or used exclusively  
24 upon stationary rails or tracks;

25       (~~(11)~~) (12) "Waste reduction" means reducing the amount or  
26 toxicity of waste generated or reusing materials;

27       (~~(12)~~) (13) "Watercraft" means any boat, ship, vessel, barge, or  
28 other floating craft;

29       (~~(13)~~) (14) "Public place" means any area that is used or held  
30 out for use by the public whether owned or operated by public or  
31 private interests.

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

34       (1) No person shall throw, drop, deposit, discard, or otherwise  
35 dispose of litter upon any public property in the state or upon private  
36 property in this state not owned by him or her or in the waters of this  
37 state whether from a vehicle or otherwise including but not limited to  
38 any public highway, public park, beach, campground, forest land,

1 recreational area, trailer park, highway, road, street, or alley  
2 except:

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

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

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

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

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

32 (d) Except as otherwise provided by law, it is a gross misdemeanor  
33 for a person to litter, in any amount, a hazardous substance in an  
34 unincorporated area of a county. The person shall also pay a litter  
35 cleanup restitution payment equal to twice the actual costs of cleanup  
36 or one hundred dollars per cubic foot of litter, whichever is greater.  
37 The court shall distribute one-half of the restitution payment to the  
38 landowner and one-half of the restitution payment to the law  
39 enforcement agency investigating the incident.

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

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

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.93 RCW  
10 to read as follows:

11 (1) A peace officer specified under RCW 9A.04.110 may seize without  
12 warrant vehicles, gear, appliances, or any other items or articles they  
13 have probable cause to believe have been used in violation of RCW  
14 70.93.060(2) (c) or (d). However, a peace officer may not seize any  
15 item or article, other than for evidence, if under the circumstances it  
16 is reasonable to conclude that the violation was inadvertent. The  
17 property seized is subject to forfeiture to the enforcement agency that  
18 seized the property under this section regardless of ownership.  
19 Property seized may be recovered by its owner by depositing into court  
20 a cash bond equal to the value of the seized property but not more than  
21 twenty-five thousand dollars. Such cash bond is subject to forfeiture  
22 in lieu of the property. Forfeiture of property seized under this  
23 section is a civil forfeiture against property intended to be a  
24 remedial civil sanction.

25 (2) In the event of a seizure of property under this section,  
26 jurisdiction to begin the forfeiture proceedings shall commence upon  
27 seizure. Within fifteen days following the seizure, the seizing  
28 authority shall serve a written notice of intent to forfeit property on  
29 the owner of the property seized and on any person having any known  
30 right or interest in the property seized. Notice may be served by any  
31 method authorized by law or court rule, including service by certified  
32 mail with return receipt requested. Service by mail is deemed complete  
33 upon mailing within the fifteen-day period following the seizure.

34 (3) Persons claiming a right of ownership or right to possession of  
35 property are entitled to a hearing to contest forfeiture. Such a claim  
36 shall specify the claim of ownership or possession and shall be made in  
37 writing and served on the director within forty-five days of the  
38 seizure. If the seizing authority has complied with notice

1 requirements and there is no claim made within forty-five days, then  
2 the property shall be forfeited to the agency that seized the property.

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

12 (5) The hearing to contest forfeiture and any subsequent appeal  
13 shall be as provided for in Title 34 RCW. The seizing authority has  
14 the burden to demonstrate that it had reason to believe the property  
15 was held with intent to violate or was used in violation of RCW  
16 70.93.060(2) (c) or (d). The person contesting forfeiture has the  
17 burden of production and proof by a preponderance of evidence that the  
18 person owns or has a right to possess the property and:

19 (a) That the property was not held with intent to violate or used  
20 in violation of RCW 70.93.060(2) (c) or (d); or

21 (b) If the property is a vehicle, that the illegal use or planned  
22 illegal use of the vehicle occurred without the owner's knowledge or  
23 consent, and that the owner acted reasonably to prevent illegal uses of  
24 the vehicle.

25 (6) A forfeiture of a conveyance encumbered by a perfected security  
26 interest is subject to the interest of the secured party if the secured  
27 party neither had knowledge of nor consented to the act or omission.  
28 No security interest in seized property may be perfected after seizure.

29 (7) If seized property is forfeited under this section the  
30 enforcement agency may retain it for official use unless the property  
31 is required to be destroyed, or upon application by any law enforcement  
32 agency of the state, release such property to the agency for the use of  
33 enforcing the criminal law, or sell such property, and retain the net  
34 proceeds and use the proceeds to expand and improve the enforcement  
35 agency's litter control activity. Money retained under this section  
36 may not be used to supplant preexisting funding sources.

37 NEW SECTION. **Sec. 4.** If any provision of this act or its  
38 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

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