

SHB 1409 - S COMM AMD

By Committee on Natural Resources, Energy & Water

ADOPTED AS AMENDED 04/15/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that the
4 littering of potentially dangerous products poses a greater danger to
5 the public safety than other classes of litter. Broken glass, human
6 waste, and other dangerous materials along roadways, within parking
7 lots, and on pedestrian, bicycle, and recreation trails elevates the
8 risk to public safety, such as vehicle tire punctures, and the risk to
9 the community volunteers who spend their time gathering and properly
10 disposing of the litter left behind by others. As such, the
11 legislature finds that a higher penalty should be imposed on those who
12 improperly dispose of potentially dangerous products, such as is
13 imposed on those who improperly dispose of tobacco products.

14 (2) The legislature further finds that litter is a nuisance, and,
15 in order to alleviate such a nuisance, counties must be provided
16 statutory authority to declare what shall be a nuisance, to abate a
17 nuisance, and to impose and collect fines upon parties who may create,
18 cause, or commit a nuisance.

19 **Sec. 2.** RCW 70.93.030 and 2000 c 154 s 1 are each amended to read
20 as follows:

21 (~~As used in~~) The definitions in this section apply throughout
22 this chapter unless the context (~~indicates~~) clearly requires
23 otherwise((+)).

24 (1) "Conveyance" means a boat, airplane, or vehicle((+)).

25 (2) "Department" means the department of ecology((+)).

26 (3) "Director" means the director of the department of
27 ecology((+)).

28 (4) "Disposable package or container" means all packages or

1 containers defined as such by rules (~~and regulations~~) adopted by the
2 department of ecology((+)).

3 (5) "Junk vehicle" has the same meaning as defined in RCW
4 46.55.010((+)).

5 (6) "Litter" means all waste material including but not limited to
6 disposable packages or containers thrown or deposited as herein
7 prohibited and solid waste that is illegally dumped, but not including
8 the wastes of the primary processes of mining, logging, sawmilling,
9 farming, or manufacturing((+)). "Litter" includes the material
10 described in subsection (10) of this section as "potentially dangerous
11 litter."

12 (7) "Litter bag" means a bag, sack, or other container made of any
13 material which is large enough to serve as a receptacle for litter
14 inside the vehicle or watercraft of any person. It is not necessarily
15 limited to the state approved litter bag but must be similar in size
16 and capacity((+)).

17 (8) "Litter receptacle" means those containers adopted by the
18 department of ecology and which may be standardized as to size, shape,
19 capacity, and color and which shall bear the state anti-litter symbol,
20 as well as any other receptacles suitable for the depositing of
21 litter((+)).

22 (9) "Person" means any political subdivision, government agency,
23 municipality, industry, public or private corporation, copartnership,
24 association, firm, individual, or other entity whatsoever((+)).

25 (10) "Potentially dangerous litter" means litter that is likely to
26 injure a person or cause damage to a vehicle or other property.
27 "Potentially dangerous litter" means:

28 (a) Cigarettes, cigars, or other tobacco products that are capable
29 of starting a fire;

30 (b) Glass;

31 (c) A container or other product made predominantly or entirely of
32 glass;

33 (d) A hypodermic needle or other medical instrument designed to cut
34 or pierce;

35 (e) Raw human waste, including soiled baby diapers, regardless of
36 whether or not the waste is in a container of any sort; and

37 (f) Nails or tacks.

1 (11) "Public place" means any area that is used or held out for use
2 by the public whether owned or operated by public or private
3 interests((+))_.

4 (~~(11)~~) (12) "Recycling" means transforming or remanufacturing
5 waste materials into a finished product for use other than landfill
6 disposal or incineration((+))_.

7 (~~(12)~~) (13) "Recycling center" means a central collection point
8 for recyclable materials((+))_.

9 (~~(13)~~) (14) "To litter" means a single or cumulative act of
10 disposing of litter((+))_.

11 (~~(14)~~) (15) "Vehicle" includes every device capable of being
12 moved upon a public highway and in, upon, or by which any persons or
13 property is or may be transported or drawn upon a public highway,
14 excepting devices moved by human or animal power or used exclusively
15 upon stationary rails or tracks((+))_.

16 (~~(15)~~) (16) "Waste reduction" means reducing the amount or
17 toxicity of waste generated or reusing materials((+))_.

18 (~~(16)~~) (17) "Watercraft" means any boat, ship, vessel, barge, or
19 other floating craft.

20 **Sec. 3.** RCW 70.93.060 and 2002 c 175 s 45 are each amended to read
21 as follows:

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

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

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

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

4 (b) It is a misdemeanor for a person to litter in an amount greater
5 than one cubic foot but less than one cubic yard. The person shall
6 also pay a litter cleanup restitution payment equal to twice the actual
7 cost of cleanup, or fifty dollars per cubic foot of litter, whichever
8 is greater. The court shall distribute one-half of the restitution
9 payment to the landowner and one-half of the restitution payment to the
10 law enforcement agency investigating the incident. The court may, in
11 addition to or in lieu of part or all of the cleanup restitution
12 payment, order the person to pick up and remove litter from the
13 property, with prior permission of the legal owner or, in the case of
14 public property, of the agency managing the property. The court may
15 suspend or modify the litter cleanup restitution payment for a first-
16 time offender under this section, if the person cleans up and properly
17 disposes of the litter.

18 (c) It is a gross misdemeanor for a person to litter in an amount
19 of one cubic yard or more. The person shall also pay a litter cleanup
20 restitution payment equal to twice the actual cost of cleanup, or one
21 hundred dollars per cubic foot of litter, whichever is greater. The
22 court shall distribute one-half of the restitution payment to the
23 landowner and one-half of the restitution payment to the law
24 enforcement agency investigating the incident. The court may, in
25 addition to or in lieu of part or all of the cleanup restitution
26 payment, order the person to pick up and remove litter from the
27 property, with prior permission of the legal owner or, in the case of
28 public property, of the agency managing the property. The court may
29 suspend or modify the litter cleanup restitution payment for a first-
30 time offender under this section, if the person cleans up and properly
31 disposes of the litter.

32 (d) If a junk vehicle is abandoned in violation of this section,
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 (3) If the violation occurs in a state park, the court shall, in
37 addition to any other penalties assessed, order the person to perform

1 twenty-four hours of community restitution in the state park where the
2 violation occurred if the state park has stated an intent to
3 participate as provided in RCW 79A.05.050.

4 (4) It is a class 1 civil infraction as provided in RCW 7.80.120
5 for a person to discard, in violation of this section, (~~(a cigarette,~~
6 ~~eigar, or other tobacco product that is capable of starting a fire))~~
7 potentially dangerous litter in any amount.

8 **Sec. 4.** RCW 7.80.120 and 1997 c 159 s 2 are each amended to read
9 as follows:

10 (1) A person found to have committed a civil infraction shall be
11 assessed a monetary penalty.

12 (a) The maximum penalty and the default amount for a class 1 civil
13 infraction shall be two hundred fifty dollars, not including statutory
14 assessments, except for an infraction of state law involving (~~tobacco~~
15 ~~products~~) potentially dangerous litter as specified in RCW
16 70.93.060(4), in which case the maximum penalty and default amount is
17 five hundred dollars;

18 (b) The maximum penalty and the default amount for a class 2 civil
19 infraction shall be one hundred twenty-five dollars, not including
20 statutory assessments;

21 (c) The maximum penalty and the default amount for a class 3 civil
22 infraction shall be fifty dollars, not including statutory assessments;
23 and

24 (d) The maximum penalty and the default amount for a class 4 civil
25 infraction shall be twenty-five dollars, not including statutory
26 assessments.

27 (2) The supreme court shall prescribe by rule the conditions under
28 which local courts may exercise discretion in assessing fines for civil
29 infractions.

30 (3) Whenever a monetary penalty is imposed by a court under this
31 chapter it is immediately payable. If the person is unable to pay at
32 that time the court may grant an extension of the period in which the
33 penalty may be paid. If the penalty is not paid on or before the time
34 established for payment, the court may proceed to collect the penalty
35 in the same manner as other civil judgments and may notify the
36 prosecuting authority of the failure to pay.

1 (4) The court may also order a person found to have committed a
2 civil infraction to make restitution.

3 **Sec. 5.** RCW 46.61.645 and 1965 ex.s. c 155 s 77 are each amended
4 to read as follows:

5 (1) ~~((No person shall throw or deposit upon any highway any glass
6 bottle, glass, nails, tacks, wire, cans or any other substance likely
7 to injure any person, animal or vehicle upon such highway.~~

8 ~~(2))~~ Any person who drops, or permits to be dropped or thrown,
9 upon any highway any ~~((destructive or injurious))~~ material shall
10 immediately remove the same or cause it to be removed.

11 ~~((3))~~ (2) Any person removing a wrecked or damaged vehicle from
12 a highway shall remove any glass or other injurious substance dropped
13 upon the highway from such vehicle.

14 **Sec. 6.** RCW 36.32.120 and 1994 c 301 s 8 are each amended to read
15 as follows:

16 The legislative authorities of the several counties shall:

17 (1) Provide for the erection and repairing of court houses, jails,
18 and other necessary public buildings for the use of the county;

19 (2) Lay out, discontinue, or alter county roads and highways within
20 their respective counties, and do all other necessary acts relating
21 thereto according to law, except within cities and towns which have
22 jurisdiction over the roads within their limits;

23 (3) License and fix the rates of ferriage; grant grocery and other
24 licenses authorized by law to be by them granted at fees set by the
25 legislative authorities which shall not exceed the costs of
26 administration and operation of such licensed activities;

27 (4) Fix the amount of county taxes to be assessed according to the
28 provisions of law, and cause the same to be collected as prescribed by
29 law;

30 (5) Allow all accounts legally chargeable against the county not
31 otherwise provided for, and audit the accounts of all officers having
32 the care, management, collection, or disbursement of any money
33 belonging to the county or appropriated to its benefit;

34 (6) Have the care of the county property and the management of the

1 county funds and business and in the name of the county prosecute and
2 defend all actions for and against the county, and such other powers as
3 are or may be conferred by law;

4 (7) Make and enforce, by appropriate resolutions or ordinances, all
5 such police and sanitary regulations as are not in conflict with state
6 law, and within the unincorporated area of the county may adopt by
7 reference Washington state statutes and recognized codes and/or
8 compilations printed in book form relating to the construction of
9 buildings, the installation of plumbing, the installation of electric
10 wiring, health, or other subjects, and may adopt such codes and/or
11 compilations or portions thereof, together with amendments thereto, or
12 additions thereto: PROVIDED, That except for Washington state
13 statutes, there shall be filed in the county auditor's office one copy
14 of such codes and compilations ten days prior to their adoption by
15 reference, and additional copies may also be filed in library or city
16 offices within the county as deemed necessary by the county legislative
17 authority: PROVIDED FURTHER, That no such regulation, code,
18 compilation, and/or statute shall be effective unless before its
19 adoption, a public hearing has been held thereon by the county
20 legislative authority of which at least ten days' notice has been
21 given. Any violation of such regulations, ordinances, codes,
22 compilations, and/or statutes or resolutions shall constitute a
23 misdemeanor or a civil violation subject to a monetary penalty:
24 PROVIDED FURTHER, That violation of a regulation, ordinance, code,
25 compilation, and/or statute relating to traffic including parking,
26 standing, stopping, and pedestrian offenses is a traffic infraction,
27 except that violation of a regulation, ordinance, code, compilation,
28 and/or statute equivalent to those provisions of Title 46 RCW set forth
29 in RCW 46.63.020 remains a misdemeanor. However, the punishment for
30 any criminal ordinance shall be the same as the punishment provided in
31 state law for the same crime and no act that is a state crime may be
32 made a civil violation. The notice must set out a copy of the proposed
33 regulations or summarize the content of each proposed regulation; or if
34 a code is adopted by reference the notice shall set forth the full
35 official title and a statement describing the general purpose of such
36 code. For purposes of this subsection, a summary shall mean a brief
37 description which succinctly describes the main points of the proposed

1 regulation. When the county publishes a summary, the publication shall
2 include a statement that the full text of the proposed regulation will
3 be mailed upon request. An inadvertent mistake or omission in
4 publishing the text or a summary of the content of a proposed
5 regulation shall not render the regulation invalid if it is adopted.
6 The notice shall also include the day, hour, and place of hearing and
7 must be given by publication in the newspaper in which legal notices of
8 the county are printed;

9 (8) Have power to compound and release in whole or in part any debt
10 due to the county when in their opinion the interest of their county
11 will not be prejudiced thereby, except in cases where they or any of
12 them are personally interested;

13 (9) Have power to administer oaths or affirmations necessary in the
14 discharge of their duties and commit for contempt any witness refusing
15 to testify before them with the same power as district judges;

16 (10) Have power to declare by ordinance what shall be deemed a
17 nuisance within the county, including but not limited to "litter" and
18 "potentially dangerous litter" as defined in RCW 70.93.030; to prevent,
19 remove, and abate a nuisance at the expense of the parties creating,
20 causing, or committing the nuisance; and to levy a special assessment
21 on the land or premises on which the nuisance is situated to defray the
22 cost, or to reimburse the county for the cost of abating it. This
23 assessment shall constitute a lien against the property which shall be
24 of equal rank with state, county, and municipal taxes.

25 NEW SECTION. Sec. 7. RCW 70.93.100 (Litter bags--Design and
26 distribution by department authorized--Violations--Penalties) and 1981
27 c 260 s 15 are each repealed."

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28 On page 1, line 1 of the title, after "littering;" strike the
29 remainder of the title and insert "amending RCW 70.93.030, 70.93.060,

1 7.80.120, 46.61.645, and 36.32.120; creating a new section; repealing
2 RCW 70.93.100; and prescribing penalties."

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