
SENATE BILL 5223

State of Washington

59th Legislature

2005 Regular Session

By Senators Esser and Doumit

Read first time 01/18/2005. Referred to Committee on Judiciary.

1 AN ACT Relating to decriminalizing "fine-only" misdemeanors;
2 amending RCW 15.53.904, 16.52.095, 19.32.180, 19.76.110, 19.84.040,
3 24.03.420, 24.03.425, 24.06.465, 24.06.470, 26.04.110, 26.04.240,
4 28A.535.070, 35.34.280, 35A.33.160, 35A.34.280, 36.40.240, 48.36A.360,
5 49.12.130, 70.54.030, 70.90.205, 70.95B.140, 70.119.130, 72.40.100,
6 73.04.020, 78.04.050, 81.44.105, 84.08.050, 88.02.110, and 90.36.050;
7 and prescribing penalties.

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

9 **Sec. 1.** RCW 15.53.904 and 1965 ex.s. c 31 s 17 are each amended to
10 read as follows:

11 (1) Any person (~~convicted of~~) violating any of the provisions of
12 this chapter or the rules and regulations issued thereunder or who
13 shall impede, obstruct, hinder, or otherwise prevent or attempt to
14 prevent the department in the performance of its duty in connection
15 with the provisions of this chapter(~~, shall be adjudged guilty of a~~
16 ~~misdemeanor and shall be fined not less than fifty dollars nor more~~
17 ~~than one hundred dollars)) commits a class 2 civil infraction for the
18 first violation, and (~~not less than two hundred dollars nor more than~~
19 ~~five hundred dollars)) commits a class 1 civil infraction for a~~~~

1 subsequent violation. In all ((prosecutions)) adjudications under this
2 chapter involving the composition of a lot of commercial feed, a
3 certified copy of the official analysis signed by the department shall
4 be accepted as prima facie evidence of the composition.

5 (2) Nothing in this chapter shall be construed as requiring the
6 department to report for ((prosecution)) adjudications or for the
7 institution of seizure proceedings as a result of minor violations of
8 this chapter when it believes that the public interest will be best
9 served by a suitable notice of warning in writing.

10 (3) It shall be the duty of each prosecuting attorney to whom any
11 violation is reported to cause appropriate proceedings to be instituted
12 and ((prosecuted)) adjudicated in a court of competent jurisdiction
13 without delay. Before the department reports a violation for such
14 ((prosecution)) adjudication, an opportunity shall be given the
15 distributor to present his or her view in writing or orally to the
16 department.

17 (4) The department is hereby authorized to apply for and the court
18 to grant a temporary or permanent injunction restraining any person
19 from violating or continuing to violate any of the provisions of this
20 chapter or any rule or regulation promulgated under this chapter
21 notwithstanding the existence of other remedies at law. ((Said)) Such
22 injunction to be issued without bond.

23 **Sec. 2.** RCW 16.52.095 and 1994 c 261 s 7 are each amended to read
24 as follows:

25 It shall not be lawful for any person to cut off more than one-half
26 of the ear or ears of any domestic animal such as an ox, cow, bull,
27 calf, sheep, goat or hog, or dog, and any person cutting off more than
28 one-half of the ear or ears of any such animals, ((shall be deemed
29 guilty of a misdemeanor, and upon conviction, shall be fined in any sum
30 less than twenty dollars)) commits a class 4 civil infraction. This
31 section does not apply if cutting off more than one-half of the ear of
32 the animal is a customary husbandry practice.

33 **Sec. 3.** RCW 19.32.180 and 1943 c 117 s 11 are each amended to read
34 as follows:

35 Any person violating any provision of this chapter ((shall be
36 guilty of a misdemeanor, and upon conviction thereof shall be fined not

1 ~~less than one hundred dollars))~~ commits a class 2 civil infraction for
2 the first offense, and ~~((not less than two hundred dollars for the~~
3 ~~second and))~~ commits a class 1 civil infraction for each and every
4 subsequent offense, and each day that any violation continues shall
5 constitute a separate offense.

6 **Sec. 4.** RCW 19.76.110 and 2003 c 53 s 148 are each amended to read
7 as follows:

8 ~~((It is hereby declared to be unlawful for))~~ Any person or persons
9 ~~((hereafter))~~ who, without the written consent of the owner or owners
10 thereof, ~~((to))~~ fills with ale, porter, lager beer or soda, mineral
11 water or other beverages, for sale or to be furnished to customers, any
12 such casks, barrels, kegs, bottles or boxes so marked or stamped, or
13 ~~((to))~~ sells, disposes of, buys or traffics in, or wantonly destroys
14 any such cask, barrel, keg, bottle or box so marked, stamped, by the
15 owner or owners thereof, after such owner or owners ~~((shall))~~ have
16 complied with the provisions of RCW 19.76.100 commits a class 1 civil
17 infraction.

18 **Sec. 5.** RCW 19.84.040 and 1907 c 253 s 4 are each amended to read
19 as follows:

20 Any person, firm, or corporation who ~~((shall))~~ violates any of the
21 provisions of this chapter ~~((shall be deemed guilty of a misdemeanor,~~
22 ~~and shall be fined not less than one hundred dollars nor more than one~~
23 ~~thousand dollars for each offense))~~ commits a class 1 civil infraction.

24 **Sec. 6.** RCW 24.03.420 and 1969 ex.s. c 163 s 7 are each amended to
25 read as follows:

26 Each corporation, domestic or foreign, that fails or refuses to
27 answer truthfully and fully within the time prescribed by this chapter
28 interrogatories propounded by the secretary of state in accordance with
29 the provisions of this chapter ~~((, shall be deemed to be guilty of a~~
30 ~~misdemeanor and upon conviction thereof may be fined in any amount not~~
31 ~~exceeding five hundred dollars))~~ commits a class 1 civil infraction.

32 **Sec. 7.** RCW 24.03.425 and 2004 c 265 s 34 are each amended to read
33 as follows:

34 Each director and officer of a corporation, domestic or foreign,

1 who fails or refuses within the time prescribed by this chapter to
2 answer truthfully and fully interrogatories propounded to him or her by
3 the secretary of state in accordance with the provisions of this
4 chapter, or who signs any articles, statement, report, application or
5 other record filed with the secretary of state which is known to such
6 officer or director to be false in any material respect, (~~shall be~~
7 ~~deemed to be guilty of a misdemeanor, and upon conviction thereof may~~
8 ~~be fined in any amount not exceeding five hundred dollars~~) commits a
9 class 1 civil infraction.

10 **Sec. 8.** RCW 24.06.465 and 2003 c 53 s 165 are each amended to read
11 as follows:

12 (1) Each corporation, domestic or foreign, (~~which~~) that fails or
13 refuses to file its annual report for any year within the time
14 prescribed by this chapter shall be subject to a penalty as established
15 and assessed by the secretary of state.

16 (2) Each corporation, domestic or foreign, (~~which~~) that fails or
17 refuses to answer truthfully and fully within the time prescribed by
18 this chapter any interrogatories propounded by the secretary of state
19 in accordance with the provisions of this chapter(~~, is guilty of a~~
20 ~~misdemeanor and upon conviction thereof shall be fined in an amount not~~
21 ~~to exceed five hundred dollars~~) commits a class 1 civil infraction on
22 each (~~count~~) violation.

23 **Sec. 9.** RCW 24.06.470 and 1969 ex.s. c 120 s 94 are each amended
24 to read as follows:

25 Each director and officer of a corporation, domestic or foreign,
26 who fails or refuses within the time prescribed by this chapter, to
27 answer truthfully and fully any interrogatories propounded to him or
28 her by the secretary of state in accordance with the provisions of this
29 chapter, or who signs any articles, statement, report, application, or
30 other document filed with the secretary of state, which is known to
31 such officer or director to be false in any material respect, (~~shall~~
32 ~~be deemed to be guilty of a misdemeanor, and upon conviction thereof~~
33 ~~shall be fined in an amount not to exceed five hundred dollars~~)
34 commits a class 1 civil infraction on each (~~count~~) violation.

1 **Sec. 10.** RCW 26.04.110 and 1967 c 26 s 6 are each amended to read
2 as follows:

3 Any person solemnizing a marriage, who shall willfully refuse or
4 neglect to make and deliver to the county auditor for record, the
5 certificates mentioned in RCW 26.04.090, within the time in such
6 section specified, (~~shall be deemed guilty of a misdemeanor, and upon~~
7 ~~conviction shall pay for such refusal, or neglect, a fine of not less~~
8 ~~than twenty five nor more than three hundred dollars~~) commits a class
9 1 civil infraction.

10 **Sec. 11.** RCW 26.04.240 and Code 1881 s 2395 are each amended to
11 read as follows:

12 Any person who (~~shall~~) undertakes to join others in marriage
13 knowing that he or she is not lawfully authorized so to do, or any
14 person authorized to solemnize marriage, who shall join persons in
15 marriage contrary to the provisions of this chapter (chapter 26.04
16 RCW), (~~shall, upon conviction thereof, be punished by a fine of not~~
17 ~~more than five hundred, nor less than one hundred dollars~~) commits a
18 class 1 civil infraction.

19 **Sec. 12.** RCW 28A.535.070 and 1985 c 7 s 90 are each amended to
20 read as follows:

21 When authorized to issue bonds, as provided in this chapter the
22 board of directors shall immediately cause to be sent to the
23 appropriate county treasurer, notice thereof. The county officials
24 charged by law with the duty of levying taxes for the payment of said
25 bonds and interest shall do so as provided in RCW 39.46.110.

26 The annual expense of such district shall not thereafter exceed the
27 annual revenue thereof, and any officer of such district who (~~shall~~)
28 knowingly aids in increasing the annual expenditure in excess of the
29 annual revenue of such district, in addition to any other penalties,
30 whether civil or criminal, as provided by law, (~~shall be deemed to be~~
31 ~~guilty of a misdemeanor, and shall be punished by a fine not exceeding~~
32 ~~five hundred dollars~~) commits a class 1 civil infraction.

33 **Sec. 13.** RCW 35.34.280 and 1985 c 175 s 31 are each amended to
34 read as follows:

35 (~~Upon the conviction of~~) Any city or town official, department

1 head, or other city or town employee ((of)) who knowingly ((~~failing,~~)
2 fails or ((~~refusing~~)) refuses, without just cause, to perform any duty
3 imposed upon such officer or employee by this chapter, or city charter
4 or city or town ordinance, in connection with the giving of notice, the
5 preparing and filing of estimates of revenues or expenditures or other
6 information required for preparing a budget report in the time and
7 manner required, or of knowingly making expenditures in excess of
8 budget appropriations, ((~~the official or employee shall be guilty of a~~
9 ~~misdemeanor and shall be fined not more than five hundred dollars~~))
10 commits a class 1 civil infraction for each separate violation.

11 **Sec. 14.** RCW 35A.33.160 and 1967 ex.s. c 119 s 35A.33.160 are each
12 amended to read as follows:

13 ((~~Upon the conviction of~~)) Any city official, department head, or
14 other city employee ((of)) who knowingly ((~~failing,~~)
15 ((~~refusing~~)) refuses, without just cause, to perform any duty imposed
16 upon such officer or employee by this chapter, or city ordinance or
17 charter, in connection with the giving of notice, the preparing and
18 filing of estimates of revenues or expenditures or other information
19 required for preparing a budget report in the time and manner required,
20 or of knowingly making expenditures in excess of budget appropriations,
21 ((~~he shall be guilty of a misdemeanor and shall be fined not more than~~
22 ~~five hundred dollars~~)) commits a class 1 civil infraction for each
23 separate violation.

24 **Sec. 15.** RCW 35A.34.280 and 1985 c 175 s 60 are each amended to
25 read as follows:

26 ((~~Upon the conviction of~~)) Any city official, department head, or
27 other city employee ((of)) who knowingly ((~~failing,~~)
28 ((~~refusing~~)) refuses, without just cause, to perform any duty imposed
29 upon such officer or employee by this chapter, or city charter or city
30 ordinance, in connection with the giving of notice, the preparing and
31 filing of estimates of revenues or expenditures or other information
32 required for preparing a budget report in the time and manner required,
33 or of knowingly making expenditures in excess of budget appropriations,
34 ((~~the official or employee shall be guilty of a misdemeanor and shall~~
35 ~~be fined not more than five hundred dollars~~)) commits a class 1 civil
36 infraction for each separate violation.

1 **Sec. 16.** RCW 36.40.240 and 1963 c 4 s 36.40.240 are each amended
2 to read as follows:

3 Any person violating any of the provisions of this chapter (~~shall~~
4 ~~be guilty of a misdemeanor and upon conviction thereof shall be fined~~
5 ~~not less than twenty five dollars nor more than five hundred dollars~~)
6 commits a class 1 civil infraction.

7 **Sec. 17.** RCW 48.36A.360 and 1987 c 366 s 36 are each amended to
8 read as follows:

9 (1) Any person who willfully makes a false or fraudulent statement
10 in or relating to an application for membership or for the purpose of
11 obtaining money from or a benefit in any society, shall upon conviction
12 be fined not less than one hundred dollars nor more than five hundred
13 dollars or imprisonment in the county jail not less than thirty days
14 nor more than one year, or both.

15 (2) Any person who willfully makes a false or fraudulent statement
16 in any verified report or declaration under oath required or authorized
17 by this chapter, or of any material fact or thing contained in a sworn
18 statement concerning the death or disability of an insured for the
19 purpose of procuring payment of a benefit named in the certificate,
20 shall be guilty of false swearing and shall be subject to the penalties
21 under RCW 9A.72.040.

22 (3) Any person who solicits membership for, or in any manner
23 assists in procuring membership in, any society not licensed to do
24 business in this state (~~shall be guilty of a misdemeanor and upon~~
25 ~~conviction be fined not less than fifty dollars nor more than two~~
26 ~~hundred dollars~~) commits a class 2 civil infraction.

27 (4) Any person guilty of a willful violation of, or neglect or
28 refusal to comply with, the provisions of this chapter for which a
29 penalty is not otherwise prescribed(~~, shall upon conviction, be~~
30 ~~subject to a fine not exceeding two hundred dollars~~) commits a class
31 2 civil infraction.

32 **Sec. 18.** RCW 49.12.130 and 1913 c 174 s 16 are each amended to
33 read as follows:

34 Any employer who discharges, or in any other manner discriminates
35 against any employee because such employee has testified or is about to
36 testify, or because such employer believes that (~~said~~) the employee

1 may testify in any investigation or proceedings relative to the
2 enforcement of RCW 49.12.010 through 49.12.180, (~~shall be deemed~~
3 ~~guilty of a misdemeanor and upon conviction thereof, shall be punished~~
4 ~~by a fine of from twenty five dollars to one hundred dollars~~) commits
5 a class 2 civil infraction for each such (~~misdemeanor~~) violation.

6 **Sec. 19.** RCW 70.54.030 and 1909 c 16 s 2 are each amended to read
7 as follows:

8 Any person who (~~shall~~) places or causes to be placed within any
9 watershed from which any city or municipal corporation of any adjoining
10 state obtains its water supply, any substance which either by itself or
11 in connection with other matter will corrupt, pollute, or impair the
12 quality of (~~said~~) the water supply, or the owner of any dead animal
13 who (~~shall~~) knowingly leaves or causes to be left the carcass or any
14 portion thereof within any such watershed in such condition as to in
15 any way corrupt or pollute such water supply (~~shall be deemed guilty~~
16 ~~of a misdemeanor and upon conviction shall be punished by fine in any~~
17 ~~sum not exceeding five hundred dollars~~) commits a class 1 civil
18 infraction.

19 **Sec. 20.** RCW 70.90.205 and 1987 c 222 s 11 are each amended to
20 read as follows:

21 The violation of any provisions of this chapter and any rules
22 adopted under this chapter (~~shall be a misdemeanor punishable by a~~
23 ~~fine of not more than five hundred dollars~~) is a class 1 civil
24 infraction.

25 **Sec. 21.** RCW 70.95B.140 and 1973 c 139 s 14 are each amended to
26 read as follows:

27 Any person, including any firm, corporation, municipal corporation,
28 or other governmental subdivision or agency, violating any provisions
29 of this chapter or the rules and regulations adopted hereunder (~~is~~
30 ~~guilty of a misdemeanor~~) commits a class 2 civil infraction. Each day
31 of operation in such violation of this chapter or any rules or
32 regulations adopted hereunder (~~shall~~) constitutes a separate offense.
33 (~~Upon conviction, violators shall be fined an amount not exceeding one~~
34 ~~hundred dollars for each offense.~~) It (~~shall be~~) is the duty of the

1 prosecuting attorney or the attorney general, as appropriate, to secure
2 injunctions of continuing violations of any provisions of this chapter
3 or the rules and regulations adopted hereunder.

4 **Sec. 22.** RCW 70.119.130 and 1991 c 305 s 8 are each amended to
5 read as follows:

6 Any person, including any operator or any firm, association,
7 corporation, municipal corporation, or other governmental subdivision
8 or agency, who, after thirty days' written notice, operates a public
9 water system which is not in compliance with RCW 70.119.030(1)(~~, shall~~
10 ~~be guilty of a misdemeanor~~) commits a class 2 civil infraction. Each
11 month of such operation out of compliance with RCW 70.119.030(1) shall
12 constitute a separate offense. (~~Upon conviction, violators shall be~~
13 ~~fined an amount not exceeding one hundred dollars for each offense.~~)
14 It (~~shall be~~) is the duty of the prosecuting attorney or the attorney
15 general, as appropriate to secure injunctions of continuing violations
16 of any provisions of this chapter or the rules and regulations adopted
17 hereunder: PROVIDED, That, except in the case of fraud, deceit, or
18 gross negligence under RCW 70.119.110, no revocation, citation, or
19 charge shall be made under RCW 70.119.110 and 70.119.130 until a proper
20 written notice of violation is received and a reasonable opportunity
21 for correction has been given.

22 **Sec. 23.** RCW 72.40.100 and 1987 c 202 s 229 are each amended to
23 read as follows:

24 Any parent, guardian, or educational service district
25 superintendent who, without proper cause, fails to carry into effect
26 the provisions of this chapter (~~shall be guilty of a misdemeanor, and~~
27 ~~upon conviction thereof, upon the complaint of any officer or citizen~~
28 ~~of the county or state, before any district or superior court, shall be~~
29 ~~fined in any sum not less than fifty nor more than two hundred~~
30 ~~dollars~~) commits a class 1 civil infraction.

31 **Sec. 24.** RCW 73.04.020 and 1891 c 14 s 2 are each amended to read
32 as follows:

33 Any such officer who may require and accept fees for such services
34 (~~shall be deemed guilty of a misdemeanor, and on conviction thereof~~

1 ~~shall be fined in any sum not less than ten dollars nor more than fifty~~
2 ~~dollars)) commits a class 3 civil infraction.~~

3 **Sec. 25.** RCW 78.04.050 and 1901 c 120 s 2 are each amended to read
4 as follows:

5 Any violation of any of the provisions of RCW 78.04.040 by any
6 officer or agent of such corporation (~~shall~~) constitutes a
7 (~~misdemeanor, and upon conviction thereof every such officer or agent~~
8 ~~shall be fined in a sum not greater than two hundred dollars)) class 1
9 civil infraction for each offense.~~

10 **Sec. 26.** RCW 81.44.105 and 1961 c 14 s 81.44.105 are each amended
11 to read as follows:

12 Every violation of RCW 81.44.101 through 81.44.105 is a
13 (~~misdemeanor and shall be punishable by a fine of not more than one~~
14 ~~hundred dollars)) class 3 civil infraction.~~

15 **Sec. 27.** RCW 84.08.050 and 2003 c 53 s 407 are each amended to
16 read as follows:

17 (1) The department of revenue shall:

18 (a) Require individuals, partnerships, companies, associations and
19 corporations to furnish information as to their capital, funded debts,
20 investments, value of property, earnings, taxes and all other facts
21 called for on these subjects so that the department may determine the
22 taxable value of any property or any other fact it may consider
23 necessary to carry out any duties now or hereafter imposed upon it, or
24 may ascertain the relative burdens borne by all kinds and classes of
25 property within the state, and for these purposes their records, books,
26 accounts, papers and memoranda shall be subject to production and
27 inspection, investigation and examination by the department, or any
28 employee thereof designated by the department for such purpose, and any
29 or all real and/or personal property in this state shall be subject to
30 visitation, investigation, examination and/or listing at any and all
31 times by the department or by any employee thereof designated by the
32 department.

33 (b) Summon witnesses to appear and testify on the subject of
34 capital, funded debts, investments, value of property, earnings, taxes,
35 and all other facts called for on these subjects, or upon any matter

1 deemed material to the proper assessment of property, or to the
2 investigation of the system of taxation, or the expenditure of public
3 funds for state, county, district and municipal purposes: PROVIDED,
4 HOWEVER, No person shall be required to testify outside of the county
5 in which the taxpayer's residence, office or principal place of
6 business, as the case may be, is located. Such summons shall be served
7 in like manner as a subpoena issued out of the superior court and be
8 served by the sheriff of the proper county, and such service certified
9 by him or her to the department without compensation therefor. Persons
10 appearing before the department in obedience to a summons shall in the
11 discretion of the department receive the same compensation as witnesses
12 in the superior court.

13 (c) Thoroughly investigate all complaints which may be made to it
14 of illegal, unjust or excessive taxation, and shall endeavor to
15 ascertain to what extent and in what manner, if at all, the present
16 system is inequal or oppressive.

17 (2) Any member of the department or any employee thereof designated
18 for that purpose may administer oaths to witnesses.

19 (3)(a) In case any witness shall fail to obey the summons to
20 appear, or refuse to testify, or shall fail or refuse to comply with
21 any of the provisions of subsection (1)(a) or (b) of this section, such
22 person, for each separate or repeated offense, (~~shall be deemed guilty~~
23 ~~of a misdemeanor, and upon conviction thereof shall be fined in any sum~~
24 ~~not less than fifty dollars, nor more than five thousand dollars))~~
25 commits a class 1 civil infraction.

26 (b) Any person who shall testify falsely is guilty of perjury and
27 shall be punished under chapter 9A.72 RCW.

28 **Sec. 28.** RCW 88.02.110 and 1993 c 244 s 4 are each amended to read
29 as follows:

30 (1) Except as otherwise provided in this chapter, a violation of
31 this chapter and the rules adopted by the department pursuant to these
32 statutes is a (~~misdemeanor punishable only by a fine not to exceed one~~
33 ~~hundred dollars)) class 3 civil infraction per vessel for the first
34 violation. Subsequent violations in the same year are subject to the
35 following (~~finest~~):~~

36 (a) (~~For the~~) A second violation(~~, a fine of two hundred~~
37 ~~dollars)) is a class 2 civil infraction per vessel;~~

1 (b) ~~((For the))~~ A third ~~((and))~~ or successive violation~~((s, a fine~~
2 ~~of four hundred dollars))~~ is a class 1 civil infraction per vessel.

3 (2) After subtraction of court costs and administrative collection
4 fees, moneys collected under this section shall be credited to the
5 current expense fund of the ~~((arresting))~~ adjudicating jurisdiction.

6 (3) All law enforcement officers shall have the authority to
7 enforce this chapter, and the rules adopted by the department pursuant
8 to these statutes within their respective jurisdictions: PROVIDED,
9 That a city, town, or county may contract with a fire protection
10 district for such enforcement and fire protection districts are
11 authorized to engage in such activities.

12 **Sec. 29.** RCW 90.36.050 and 1901 c 121 s 3 are each amended to read
13 as follows:

14 Any person whether as owner, lessee, agent, or manager having
15 possession or control of any such well, violating the provisions of
16 ~~((this act shall be deemed guilty of a misdemeanor and upon conviction~~
17 ~~thereof, shall be fined in any sum not exceeding two hundred dollars))~~
18 RCW 90.36.020 through 90.36.040 commits a class 1 civil infraction for
19 each and every such ~~((offense))~~ violation, and ~~((the further sum of two~~
20 ~~hundred dollars for))~~ each ten days during which such violation
21 ~~((shall))~~ continues shall be considered a separate violation.

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