
HOUSE BILL 2399

State of Washington

61st Legislature

2010 Regular Session

By Representatives Upthegrove, Rodne, Finn, Armstrong, Rolfes, Haler, Driscoll, Chase, Morrell, Maxwell, Simpson, and Hudgins

Prefiled 12/07/09. Read first time 01/11/10. Referred to Committee on Ecology & Parks.

1 AN ACT Relating to penalties for engaging in, or advertising to
2 engage in, solid waste collection without a solid waste collection
3 certificate; amending RCW 81.77.040 and 81.77.090; adding a new section
4 to chapter 81.77 RCW; prescribing penalties; and providing an effective
5 date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 81.77 RCW
8 to read as follows:

9 (1) Except for a person possessing a solid waste collection
10 certificate issued by the commission, a person may not engage in, or
11 advertise to engage in, services for which a solid waste collection
12 certificate is required under RCW 81.77.040. Any person found by the
13 commission to be in violation of this subsection, after notice and an
14 opportunity for hearing, may be subject to a penalty of up to five
15 thousand dollars for each violation. Each advertisement reproduced,
16 broadcast, or displayed via a particular medium constitutes a separate
17 violation of this subsection.

18 (2) Any person who engages in business as a solid waste collection

1 company in violation of a cease and desist order issued by the
2 commission under RCW 81.04.510 is subject to a penalty of up to ten
3 thousand dollars per violation.

4 **Sec. 2.** RCW 81.77.040 and 2007 c 234 s 66 are each amended to read
5 as follows:

6 A solid waste collection company shall not operate for the hauling
7 of solid waste for compensation without first having obtained from the
8 commission a certificate declaring that public convenience and
9 necessity require such operation. Operating for the hauling of solid
10 waste for compensation includes advertising, soliciting, offering, or
11 entering into an agreement to provide that service. To operate a solid
12 waste collection company in the unincorporated areas of a county, the
13 company must comply with the solid waste management plan prepared under
14 chapter 70.95 RCW in the company's franchise area.

15 Issuance of the certificate of necessity must be determined on, but
16 not limited to, the following factors: The present service and the
17 cost thereof for the contemplated area to be served; an estimate of the
18 cost of the facilities to be utilized in the plant for solid waste
19 collection and disposal, set out in an affidavit or declaration; a
20 statement of the assets on hand of the person, firm, association, or
21 corporation that will be expended on the purported plant for solid
22 waste collection and disposal, set out in an affidavit or declaration;
23 a statement of prior experience, if any, in such field by the
24 petitioner, set out in an affidavit or declaration; and sentiment in
25 the community contemplated to be served as to the necessity for such a
26 service.

27 When an applicant requests a certificate to operate in a territory
28 already served by a certificate holder under this chapter, the
29 commission may, after notice and an opportunity for a hearing, issue
30 the certificate only if the existing solid waste collection company or
31 companies serving the territory will not provide service to the
32 satisfaction of the commission or if the existing solid waste
33 collection company does not object.

34 In all other cases, the commission may, with or without hearing,
35 issue certificates, or for good cause shown refuse to issue them, or
36 issue them for the partial exercise only of the privilege sought, and

1 may attach to the exercise of the rights granted such terms and
2 conditions as, in its judgment, the public convenience and necessity
3 may require.

4 Any right, privilege, certificate held, owned, or obtained by a
5 solid waste collection company may be sold, assigned, leased,
6 transferred, or inherited as other property, only if authorized by the
7 commission.

8 For purposes of issuing certificates under this chapter, the
9 commission may adopt categories of solid wastes as follows: Garbage,
10 refuse, recyclable materials, and demolition debris. A certificate may
11 be issued for one or more categories of solid waste. Certificates
12 issued on or before July 23, 1989, shall not be expanded or restricted
13 by operation of this chapter.

14 **Sec. 3.** RCW 81.77.090 and 1961 c 295 s 10 are each amended to read
15 as follows:

16 Every person who violates or fails to comply with, or who procures,
17 aids, or abets in the violation of any provisions of this chapter, or
18 who fails to obey, or comply with any order, decision, rule,
19 regulation, direction, demand, or requirement of the commission, or any
20 part or provision thereof, is guilty of a gross misdemeanor. The
21 commission shall adopt rules that provide for civil penalties that may
22 be used in addition to or in lieu of the penalties provided in this
23 chapter. Any civil penalty imposed under this chapter must be
24 deposited into the state public works trust account.

25 NEW SECTION. **Sec. 4.** This act takes effect July 1, 2010.

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