

SSB 5350 - H COMM AMD
By Committee on Environment

ADOPTED 04/01/2011

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

3 "Sec. 1. RCW 70.95.240 and 2001 c 139 s 2 are each amended to read
4 as follows:

5 (1) Except as otherwise provided in this section or at a solid
6 waste disposal site for which there is a valid permit, after the
7 adoption of regulations or ordinances by any county, city, or
8 jurisdictional board of health providing for the issuance of permits as
9 provided in RCW 70.95.160, it (~~shall be~~) is unlawful for any person
10 to dump or deposit or permit the dumping or depositing of any solid
11 waste onto or under the surface of the ground or into the waters of
12 this state (~~except at a solid waste disposal site for which there is~~
13 ~~a valid permit~~)).

14 (2) This section does not:

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

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

21 (c) Apply to the application of commercial fertilizer that has been
22 registered with the department of agriculture as provided in RCW
23 15.54.325, and that is applied in accordance with the standards
24 established in RCW 15.54.800(3).

25 (~~(+2)~~) (3)(a) It is a class 3 civil infraction as defined in RCW
26 7.80.120 for a person to litter in an amount less than or equal to one
27 cubic foot.

28 (b)(i) It is a misdemeanor for a person to litter in an amount
29 greater than one cubic foot but less than one cubic yard. (~~The~~
30 ~~person~~))

1 (ii) A person found to have littered in an amount greater than one
2 cubic foot, but less than one cubic yard, shall also pay a litter
3 cleanup restitution payment ((equal to)). This payment must be the
4 greater of twice the actual cost of ((cleanup)) removing and properly
5 disposing of the litter, or fifty dollars per cubic foot of litter((
6 whichever is greater)).

7 (iii) The court shall distribute one-half of the restitution
8 payment to the landowner where the littering occurred and one-half of
9 the restitution payment to the jurisdictional health department
10 investigating the incident. If the landowner provided written
11 permission authorizing the littering on his or her property or assisted
12 a person with littering on the landowner's property, the landowner is
13 not entitled to any restitution ordered by the court and the full
14 litter cleanup restitution payment must be provided to the
15 jurisdictional health department investigating the incident.

16 (iv) A jurisdictional health department receiving all or a portion
17 of a litter cleanup restitution payment must use the payment as
18 follows:

19 (A) One-half of the payment may be used by the jurisdictional
20 health department in the fulfillment of its responsibilities under this
21 chapter; and

22 (B) One-half of the payment must be used to assist property owners
23 located within the jurisdiction of the health department with the
24 removal and proper disposal of litter in instances when the person
25 responsible for the illegal dumping of the solid waste cannot be
26 determined.

27 (v) The court may, in addition to ((or in lieu of part or all of))
28 the litter cleanup restitution payment, order the person to ((pick up
29 and)) remove and properly dispose of the litter from the property, with
30 prior permission of the legal owner or, in the case of public property,
31 of the agency managing the property. The court may suspend or modify
32 the litter cleanup restitution payment for a first-time offender under
33 this section((7)) if the person ((cleans up)) removes and properly
34 disposes of the litter.

35 (c)(i) It is a gross misdemeanor for a person to litter in an
36 amount of one cubic yard or more. ((The person))

37 (ii) A person found to have littered in an amount greater than one
38 cubic yard shall also pay a litter cleanup restitution payment ((equal

1 ~~to~~). This payment must be the greater of twice the actual cost of
2 ((cleanup)) removing and properly disposing of the litter, or one
3 hundred dollars per cubic foot of litter(~~, whichever is greater~~)).

4 (iii) The court shall distribute one-half of the restitution
5 payment to the landowner where the littering occurred and one-half of
6 the restitution payment to the jurisdictional health department
7 investigating the incident. If the landowner provided written
8 permission authorizing the littering on his or her property or assisted
9 a person with littering on the landowner's property, the landowner is
10 not entitled to any restitution ordered by the court and the full
11 litter cleanup restitution payment must be provided to the
12 jurisdictional health department investigating the incident.

13 (iv) A jurisdictional health department receiving all or a portion
14 of a litter cleanup restitution payment must use the payment as
15 follows:

16 (A) One-half of the payment may be used by the jurisdictional
17 health department in the fulfillment of its responsibilities under this
18 chapter; and

19 (B) One-half of the payment must be used to assist property owners
20 located within the jurisdiction of the health department with the
21 removal and proper disposal of litter in instances when the person
22 responsible for the illegal dumping of the solid waste cannot be
23 determined.

24 (v) The court may, in addition to (~~or in lieu of part or all of~~)
25 the litter cleanup restitution payment, order the person to (~~pick up~~
26 and) remove and properly dispose of the litter from the property, with
27 prior permission of the legal owner or, in the case of public property,
28 of the agency managing the property. The court may suspend or modify
29 the litter cleanup restitution payment for a first-time offender under
30 this section(~~(7)~~) if the person (~~cleans up~~) removes and properly
31 disposes of the litter.

32 (~~(d)~~) (4) If a junk vehicle is abandoned in violation of this
33 chapter, RCW 46.55.230 governs the vehicle's removal, disposal, and
34 sale, and the penalties that may be imposed against the person who
35 abandoned the vehicle.

36 (5) When enforcing this section, the enforcing authority must take
37 reasonable action to determine and identify the person responsible for

1 illegally dumping solid waste before requiring the owner or lessee of
2 the property where illegal dumping of solid waste has occurred to
3 remove and properly dispose of the litter on the site."

4 Correct the title.

EFFECT: Prohibits a landowner from receiving any portion of the litter cleanup restitution payment if the landowner authorized the littering in writing or assisted a person with littering on the landowner's property;

Clarifies how the portion of the litter cleanup restitution payment received by the jurisdictional health department must be used;

Requires an enforcing authority to take reasonable action (instead of "every effort") to determine and identify the person responsible for illegally dumping solid waste prior to requiring the owner or lessee of the property where the littering has occurred to clean up the site; and

Restructures the changes made by the underlying bill and restructures existing law for clarity.

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