

SENATE BILL REPORT

SB 5350

As Reported by Senate Committee On:
Environment, Water & Energy, February 15, 2011

Title: An act relating to the unlawful dumping of solid waste.

Brief Description: Concerning the unlawful dumping or depositing of solid waste.

Sponsors: Senators Honeyford, Morton, Swecker, Delvin and Schoesler.

Brief History:

Committee Activity: Environment, Water & Energy: 2/09/11, 2/15/11 [DPS].

SENATE COMMITTEE ON ENVIRONMENT, WATER & ENERGY

Majority Report: That Substitute Senate Bill No. 5350 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rockefeller, Chair; Nelson, Vice Chair; Honeyford, Ranking Minority Member; Chase, Delvin, Fraser, Holmquist Newbry, Morton and Ranker.

Staff: Jan Odano (786-7486)

Background: There is a comprehensive statewide program for handling, recovering, and recycling solid waste to prevent pollution and conserve the resources of the state. Each county must prepare a coordinated, comprehensive solid waste management plan and adopt regulations or ordinances to implement the plan. The regulations must address storage, collection, transportation, and treatment, and are not limited to issuance of permits and the establishment of basic level and type of services for solid waste handling.

The Department of Ecology (DOE) reviews and approves locally issued permits and solid waste management plans, and defines minimum functional standards for all types of solid waste facilities. The sites and facilities must meet certain criteria to protect the environment and human health. The local jurisdiction permits solid waste disposal sites and facilities.

Local governments have the primary responsibility to manage solid waste. Local health departments enforce environmental regulations through issuing permits for solid waste handling facilities and by regulating the operations of these facilities. They also enforce ordinances governing illegal dumping. It is illegal to dump or allow solid waste to be dumped anywhere except at a permitted solid waste site or facility. However, a person may

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dump his or her own solid waste onto his or her property so long as it is not in violation of any statutes or does not create a nuisance.

Summary of Bill (Recommended Substitute): The enforcing authority must make every effort to identify the person responsible for illegal dumping before requiring the property owner to clean up the site. The jurisdictional health department must reserve one-half of restitution payment to assist property owners with clean up when the responsible person for illegal dumping cannot be determined.

EFFECT OF CHANGES MADE BY ENVIRONMENT, WATER & ENERGY COMMITTEE (Recommended Substitute):

- Removes the provision that it is illegal to dump solid waste anywhere but at a permitted solid waste facility does not apply to a property owner where solid waste is dumped without a written agreement between the property owner and the person who dumps the waste.
- Requires the enforcing authority to make every effort to identify the responsible person for illegal dumping before requiring the property owner to clean up the site.
- Requires the jurisdictional health department to reserve one-half of restitution payment to assist property owners with clean up when the responsible person for illegal dumping cannot be determined.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This clarifies that unless there is a written agreement, the dumper is responsible for cleanup. This would make leasees eligible for funding of cleanup of illegal dumping. It would protect the department and its leasees from being in violation of state law because of the illegal actions of another person.

CON: This may allow a landowner or leasee to have a verbal agreement with another person to dump solid waste on their property and not be liable for cleanup. This could increase costs for local jurisdictions and negatively impact the environment. Illegal dumping is a difficult and costly issue for local government. Illegal dumping has caused contamination of ground water. This may inhibit local jurisdictions authority to enforce solid waste laws and to go after dumpers. The local jurisdictions generally try to go after the dumper first, but there are many challenges. In many cases the illegal dumper cannot be found or located. The property owner has an affirmative responsibility to clean up the property. It is critical to have timely cleanup. This would allow solid waste dumping at unpermitted sites.

Persons Testifying: PRO: Clay Sprague, Department of Natural Resources.

CON: Laurie Davies, DOE; John Sherman, Tacoma Pierce County Health Dept.