

ESHB 2207 - S COMM AMD
By Committee on Ways & Means

ADOPTED 03/01/2024

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that, despite a
4 modern waste disposal infrastructure, the occurrences of unlawful
5 solid waste dumping are an increasing problem on open spaces such as
6 privately and publicly owned forestlands. This irresponsible waste
7 dumping, which often includes hazardous materials, asbestos, derelict
8 boats, junk vehicles, appliances, furniture, and household garbage
9 not only creates significant costs for the landowner, but also
10 creates immediate, and sometimes lasting, environmental and habitat
11 damage and degradation of recreational and aesthetic opportunities.

12 (2) The legislature further finds that the current enforcement
13 system, which relies on the criminalization of illegal dumping, may
14 not be the most effective, efficient, or just penalty system.
15 Converting all but the most egregious illegal dumping from a criminal
16 act to a civil infraction creates a system of deterrence and
17 penalties that better reflects the magnitude of the act, avoids
18 criminal records for individuals who may be unable to afford
19 appropriate waste management options, and reduces the burden on local
20 criminal justice systems and infrastructures.

21 **Sec. 2.** RCW 70A.200.060 and 2003 c 337 s 3 are each amended to
22 read as follows:

23 (1) It is a violation of this section to (~~abandon~~):

24 (a) Abandon a junk vehicle upon any property(~~(. In addition, no~~
25 ~~person shall throw,))~~);

26 (b) Throw, drop, deposit, discard, or otherwise dispose of litter
27 upon any public property in the state or upon private property in
28 this state not owned by him or her or in the waters of this state
29 whether from a vehicle or otherwise including but not limited to any
30 public highway, public park, beach, campground, forestland,

1 recreational area, trailer park, highway, road, street, or alley
2 except:

3 ~~((a))~~ (i) When the property is designated by the state or its
4 agencies or political subdivisions for the disposal of garbage and
5 refuse, and the person is authorized to use such property for that
6 purpose;

7 ~~((b))~~ (ii) Into a litter receptacle in a manner that will
8 prevent litter from being carried away or deposited by the elements
9 upon any part of the private or public property or waters.

10 (2)(a) Except as provided in subsection ~~((4))~~ (5) of this
11 section, it is a class 3 civil infraction as provided in RCW 7.80.120
12 for a person to litter in an amount less than or equal to one cubic
13 foot.

14 (b) It is a misdemeanor for a person to litter in an amount
15 greater than one cubic foot but less than ~~(one cubic yard. The~~
16 ~~person shall also pay a litter cleanup restitution payment equal to~~
17 ~~twice the actual cost of cleanup, or fifty dollars per cubic foot of~~
18 ~~litter, whichever is greater. The court shall distribute one-half of~~
19 ~~the restitution payment to the landowner and one-half))~~ 10 cubic
20 yards. A violation of this subsection may alternatively be punished
21 with a notice of a natural resource infraction under chapter 7.84
22 RCW.

23 (c) It is a gross misdemeanor for a person to litter more than 10
24 cubic yards.

25 (d)(i) A person found liable or guilty under this section shall,
26 in addition to the penalties provided for misdemeanors, gross
27 misdemeanors, or for natural resource infractions as provided in RCW
28 7.84.100, also pay a litter clean-up restitution payment equal to
29 four times the actual cost of cleanup for natural resource
30 infractions and misdemeanors and two times the actual cost of cleanup
31 for gross misdemeanors. The court shall distribute an amount of the
32 litter clean-up restitution payment that equals the actual cost of
33 cleanup to the landowner where the littering incident occurred and
34 the remainder of the restitution payment to the law enforcement
35 agency investigating the incident.

36 (ii) The court may, in addition to or in lieu of part or all of
37 the cleanup restitution payment, order the person to pick up and
38 remove litter from the property, with prior permission of the legal
39 owner or, in the case of public property, of the agency managing the
40 property.

1 (iii) The court may suspend or modify the litter cleanup
2 restitution payment for a first-time offender under this section, if
3 the person cleans up and properly disposes of the litter.

4 ~~((c) It is a gross misdemeanor for a person to litter in an
5 amount of one cubic yard or more. The person shall also pay a litter
6 cleanup restitution payment equal to twice the actual cost of
7 cleanup, or one hundred 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
10 the law enforcement agency investigating the incident. The court may,
11 in 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
17 properly disposes of the litter.~~

18 ~~(d))~~ (3) If a junk vehicle is abandoned in violation of this
19 section, RCW 46.55.230 governs the vehicle's removal, disposal, and
20 sale, and the penalties that may be imposed against the person who
21 abandoned the vehicle.

22 ~~((3))~~ (4) If the violation occurs in a state park, the court
23 shall, in addition to any other penalties assessed, order the person
24 to perform ~~((twenty-four))~~ 24 hours of community restitution in the
25 state park where the violation occurred if the state park has stated
26 an intent to participate as provided in RCW 79A.05.050.

27 ~~((4))~~ (5) It is a class 1 civil infraction as provided in RCW
28 7.80.120 for a person to discard, in violation of this section,
29 potentially dangerous litter in any amount.

30 **Sec. 3.** RCW 7.84.100 and 2020 c 268 s 1 are each amended to read
31 as follows:

32 (1) A person found to have committed an infraction shall be
33 assessed a monetary penalty. No penalty may exceed ~~((five hundred
34 dollars))~~ \$500 for each offense unless specifically authorized by
35 statute.

36 (2) The supreme court may prescribe by rule a schedule of
37 monetary penalties for designated infractions. The legislature
38 requests the supreme court to adjust this schedule every two years
39 for inflation. ~~((The))~~ Except as otherwise provided, the maximum

1 penalty imposed by the schedule shall be (~~five hundred dollars~~)
2 \$500 per infraction and the minimum penalty imposed by the schedule
3 shall be (~~ten dollars~~) \$10 per infraction. This schedule may be
4 periodically reviewed by the legislature and is subject to its
5 revision.

6 (3) Penalties for violations of RCW 70A.200.060 that are natural
7 resource infractions are as follows:

8 (a) Up to \$250 for a person found liable of littering between one
9 cubic foot and one cubic yard of material;

10 (b) Up to \$750 for a person found liable of littering more than
11 one cubic yard and less than seven cubic yards of material;

12 (c) Up to \$1,000 for a person found liable of littering between
13 seven and 10 cubic yards of material.

14 (4) Whenever a monetary penalty is imposed by a court under this
15 chapter, it is immediately payable. If the person is unable to pay at
16 that time, the court may, in its discretion, grant an extension of
17 the period in which the penalty may be paid.

18 (~~(4)~~) (5)(a) The county treasurer shall remit (~~seventy-five~~)
19 75 percent of the money received under RCW 79A.80.080(5) to the state
20 treasurer.

21 (b) Money remitted under this subsection to the state treasurer
22 must be deposited in the recreation access pass account established
23 under RCW 79A.80.090. The balance of the noninterest money received
24 by the county treasurer must be deposited in the county current
25 expense fund.

26 **Sec. 4.** RCW 7.84.140 and 2011 c 320 s 13 are each amended to
27 read as follows:

28 (1) The director chosen by the state parks and recreation
29 commission, the commissioner of public lands, and the director of the
30 department of fish and wildlife are each authorized to delegate and
31 accept enforcement authority over natural resource infractions to or
32 from the other agencies through an agreement entered into under the
33 interlocal cooperation act, chapter 39.34 RCW.

34 (2) Any person specified in RCW 70A.200.050 may initiate
35 enforcement of RCW 70A.200.060 for those infractions that are natural
36 resource infractions under this chapter, with or without an
37 interlocal agreement under this section.

1 **Sec. 5.** RCW 7.84.020 and 2012 c 176 s 2 are each amended to read
2 as follows:

3 The definition in this section applies throughout this chapter
4 unless the context clearly requires otherwise.

5 "Infraction" means an offense which, by the terms of Title 76,
6 77, 79, or 79A RCW or RCW 7.84.030(2)(b) or 70A.200.060, and rules
7 adopted under these titles and sections, is declared not to be a
8 criminal offense or a civil infraction and is subject to the
9 provisions of this chapter."

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10 On page 1, line 2 of the title, after "dumping;" strike the
11 remainder of the title and insert "amending RCW 70A.200.060,
12 7.84.100, 7.84.140, and 7.84.020; creating a new section; and
13 prescribing penalties."

EFFECT: (1) Reclassifies litter in an amount greater than one cubic foot but less than 10 cubic yards as a misdemeanor but allows for alternative punishment with notice of a natural resource infraction.

(2) Reduces the litter cleanup restitution payment for gross misdemeanors from four times the actual cost of cleanup to two times the actual cost of cleanup.

(3) Modifies the distribution of litter clean-up restitution payments, distributing a portion to the landowner equal to the cost of cleanup and the remainder to the law enforcement agency investigating the incident.

(4) Removes language amending the waste reduction, recycling, and litter control account, eliminating the creation of new grants for funding programs to reduce illegal dumping.

(5) Removes language amending the model toxics control operating account, eliminating the extension of the public participation grant program to efforts to reduce illegal dumping of hazardous materials or petroleum-containing products.

(6) Removes the language authorizing general peace officers to take actions to enforce the unlawful dumping statute, including detentions for a reasonable time and investigations.

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