

HOUSE BILL REPORT

HB 2399

As Reported by House Committee On: Ecology & Parks

Title: An act relating to penalties for engaging in, or advertising to engage in, solid waste collection without a solid waste collection certificate.

Brief Description: Prohibiting and prescribing penalties for engaging in, or advertising to engage in, solid waste collection without a solid waste collection certificate.

Sponsors: Representatives Upthegrove, Rodne, Finn, Armstrong, Rolfes, Haler, Driscoll, Chase, Morrell, Maxwell, Simpson and Hudgins.

Brief History:

Committee Activity:

Ecology & Parks: 1/15/10, 1/19/10 [DPS].

Brief Summary of Substitute Bill

- Clarifies that operating solid waste collection includes advertising and entering into agreements for services.
- Establishes penalties for operating a solid waste collection company without approval from the Utilities and Transportation Commission.
- Establishes penalties for failure to comply with a solid waste collection cease and desist order.

HOUSE COMMITTEE ON ECOLOGY & PARKS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Upthegrove, Chair; Rolfes, Vice Chair; Chase, Dickerson, Dunshee, Eddy, Finn, Hudgins and Morris.

Minority Report: Do not pass. Signed by 6 members: Representatives Short, Ranking Minority Member; Kretz, Kristiansen, Orcutt, Shea and Taylor.

Staff: Leslie Ryan-Connelly (786-7166).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Washington law regulates the collection of solid waste for compensation. Solid waste includes garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles, and source separated recyclable materials. A solid waste collection company must be certified by the Utilities and Transportation Commission (UTC) before they can start operation. Solid waste collection companies include any person transporting solid waste for compensation, except septic tank pumpers.

The UTC is authorized to issue a cease and desist order should a person operate as a solid waste collection company without the necessary certification. A person who violates the solid waste collection law is guilty of a gross misdemeanor. A gross misdemeanor is punishable by a maximum of one year in jail, a fine of \$5,000, or both.

Summary of Substitute Bill:

Operation as a solid waste collector is clarified to include advertising, soliciting, offering, or entering into an agreement to provide solid waste collection service. A solid waste collection company must be certified for operation by the UTC before it can engage in, or advertise to engage in, solid waste collection.

The UTC may issue a penalty of up to \$5,000 for each violation related to the engagement or advertisement for services. Each advertisement reproduced, broadcast, or displayed constitutes a separate violation. Any person who continues to operate as a solid waste collection company after receiving a cease and desist order is subject to a penalty of up to \$10,000 per violation.

Operating and advertising as a solid waste collector and the associated penalties do not apply to transporters of commercial and industrial recycling materials which are certified by the Department of Ecology.

Substitute Bill Compared to Original Bill:

The authority for the UTC to adopt rules for additional penalties is removed in the substitute bill. The substitute bill clarifies that the provisions of the bill do not apply to transporters of commercial and industrial recycling materials.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect July 1, 2010.

Staff Summary of Public Testimony:

(In support) Enforcement action would be allowed when a company advertises for services without the required certificate from the UTC rather than having to catch someone in the act of collection. The bill does not change who can get a certificate. The bill does not impact recycling. Harm occurs to existing companies when others operate outside the system. Companies outside the system do not pay taxes. The bill doesn't affect self-haul disposal. Penalty money should go to the Public Works Trust Fund as the fund benefits many public works projects.

(In support with concerns) It is a public policy issue as to why we should regulate solid waste collection. Unregulated companies do not have insurance. The goal is to bring companies into compliance. The first step in enforcement is to notify someone and tell them to come into compliance by a certain date. Instead of getting evidence of someone actually conducting business, enforcement can be based on advertisement for services. It would be better to use penalty funds to support more enforcement rather than having it go to the Public Works Trust Fund. Additional authority to adopt civil penalties is not needed.

(In support with amendments) There is a title issue since it says "engage" in services. It would be helpful to have an amendment that ensures the bill does not include recycling companies.

(Opposed) None.

Persons Testifying: (In support) Representative Upthegrove, prime sponsor; and Vicki Christophersen, Washington Refuse and Recycling Association.

(In support with concerns) Dave Danner, Utilities and Transportation Commission.

(In support with amendments) Michael Transue, Construction Materials Recycling Association.

Persons Signed In To Testify But Not Testifying: None.