

---

**SUBSTITUTE HOUSE BILL 2399**

---

**State of Washington**

**61st Legislature**

**2010 Regular Session**

**By** House Ecology & Parks (originally sponsored by Representatives Upthegrove, Rodne, Finn, Armstrong, Rolfes, Haler, Driscoll, Chase, Morrell, Maxwell, Simpson, and Hudgins)

READ FIRST TIME 01/21/10.

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; adding a new section to chapter  
4 81.77 RCW; prescribing penalties; and providing an effective date.

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

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

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

17       (2) Any person who engages in business as a solid waste collection  
18 company in violation of a cease and desist order issued by the

1 commission under RCW 81.04.510 is subject to a penalty of up to ten  
2 thousand dollars per violation.

3 (3) Nothing in this section shall be construed to include a  
4 transporter as defined in RCW 70.95.400 that is in compliance with the  
5 provisions of RCW 70.95.410.

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

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

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

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

36 In all other cases, the commission may, with or without hearing,  
37 issue certificates, or for good cause shown refuse to issue them, or

1 issue them for the partial exercise only of the privilege sought, and  
2 may attach to the exercise of the rights granted such terms and  
3 conditions as, in its judgment, the public convenience and necessity  
4 may require.

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

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

15 NEW SECTION. **Sec. 3.** This act takes effect July 1, 2010.

--- END ---