

HOUSE BILL REPORT

SSB 5350

As Reported by House Committee On:
Environment

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

Brief Description: Concerning the unlawful dumping of solid waste.

Sponsors: Senate Committee on Environment, Water & Energy (originally sponsored by Senators Honeyford, Morton, Swecker, Delvin and Schoesler).

Brief History:

Committee Activity:

Environment: 3/8/11, 3/17/11 [DPA].

**Brief Summary of Substitute Bill
(As Amended by House)**

- Requires an enforcing authority to take reasonable action to determine and identify the person responsible for illegally dumping solid waste before requiring the owner or lessee of the property to clean up the site where illegal dumping of solid waste has occurred.
- Requires a jurisdictional health department to reserve one-half of the restitution payment it receives to assist property owners with clean up when the person responsible for the illegal dumping of solid waste cannot be determined.
- Prohibits a landowner from receiving any portion of the litter cleanup restitution payment ordered by the court if the landowner authorized or assisted a person with littering on the landowner's property.
- Removes the provision allowing the court to order an offender to pick up and remove litter in lieu of restitution.

HOUSE COMMITTEE ON ENVIRONMENT

Majority Report: Do pass as amended. Signed by 13 members: Representatives Uptegrove, Chair; Rolfes, Vice Chair; Short, Ranking Minority Member; Harris, Assistant

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Ranking Minority Member; Fitzgibbon, Jacks, Jinkins, Morris, Moscoso, Nealey, Pearson, Taylor and Tharinger.

Staff: Courtney Barnes (786-7194).

Background:

Unlawful Dumping of Solid Waste.

Generally, it is unlawful for any person to dump or allow solid waste to be dumped anywhere except at a permitted solid waste disposal site. However, a person may dump his or her own solid waste onto his or her property as long as it does not violate statutes or ordinances or create a nuisance.

Penalties for the unlawful dumping of solid waste are as follows:

- It is a class 3 civil infraction for a person to litter in an amount less than or equal to one cubic foot.
- It is a misdemeanor for a person to litter in an amount greater than one cubic foot but less than one cubic yard.
- It is a gross misdemeanor for a person to litter in an amount of one cubic yard or more.

In the case of a misdemeanor, the person responsible for the unlawful dumping of solid waste must pay a litter cleanup restitution payment equal to twice the actual cost of cleanup, or \$50 per cubic foot of litter, whichever is greater.

In the case of a gross misdemeanor, the person responsible for the unlawful dumping of solid waste must pay a litter cleanup restitution payment equal to twice the actual cost of cleanup, or \$100 per cubic foot of litter, whichever is greater.

The court is required to distribute one-half of the litter cleanup restitution payment to the landowner and one-half of the restitution payment to the jurisdictional health department investigating the incident. The court may, in addition to or in lieu of part or all of the restitution payment, order the person to pick up and remove the litter from the property.

The court may suspend or modify the litter cleanup restitution payment for a first-time offender, if the offender cleans up and properly disposes of the litter.

Summary of Amended Bill:

The enforcing authority is required to take reasonable action to determine and identify the person responsible for illegally dumping solid waste before requiring the owner or lessee of the property to clean up the site where illegal dumping of solid waste has occurred.

In the case of a misdemeanor or gross misdemeanor, the jurisdictional health department must reserve one-half of the litter cleanup restitution payment it receives to assist property

owners with clean up when the person responsible for the illegal dumping of solid waste cannot be determined. The other one-half of the restitution payment may be used by the jurisdictional health department in the fulfillment of its responsibilities.

A landowner is not entitled to any portion of the restitution payment ordered by the court if he or she provided written permission authorizing the littering on his or her property or assisted a person with littering on the landowner's property.

The bill removes language that allows the court to order the offender to pick up and remove litter from the property in lieu of part or all of the restitution payment. The court may, in addition to the restitution payment, order the offender to remove and properly dispose of the litter from the property.

Amended Bill Compared to Substitute Bill:

The amended bill adds a provision that prohibits a landowner from receiving any portion of the litter cleanup restitution payment if the landowner authorized or assisted a person with littering on the landowner's property. The amended bill clarifies how the portion of the restitution payment received by a jurisdictional health department must be used. Instead of making "every effort" to determine and identify the person responsible for illegally dumping solid waste as required under the substitute bill, the amended bill requires an enforcing authority to take reasonable action. The amended bill restructures the changes made by the substitute bill and also restructures existing law for clarity.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill will require an enforcing authority to make every effort to identify and go after a person that is responsible for illegally dumping solid waste, instead of forcing an innocent landowner to pay for the cost of cleaning up the property. When a person purchases new property, the purchaser should not be responsible for cleaning up the property. The bill should not be amended to allow an enforcing authority to make a reasonable effort to locate the litterer because this standard may allow an enforcing authority to ignore its duties and go after an innocent landowner.

(With concerns) The substitute bill is an improved bill as compared to the original, but the bill still needs some revisions. In particular, requiring an enforcing authority to take every effort to identify the person responsible for illegally dumping solid waste is an unclear standard. The bill should be modified to require an enforcing authority to make a reasonable effort. The bill should also be amended to address the issue of landowners that are culpable

when they knowingly receive solid waste on their property. These landowners should not be entitled to any portion of the restitution payment.

(Opposed) None.

Persons Testifying: (In support) Senator Honeyford, prime sponsor.

(With concerns) Laurie Davies, Department of Ecology.

Persons Signed In To Testify But Not Testifying: None.