

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5350

62nd Legislature
2011 Regular Session

Passed by the Senate April 18, 2011
YEAS 47 NAYS 0

President of the Senate

Passed by the House April 1, 2011
YEAS 93 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5350** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5350

AS AMENDED BY THE HOUSE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By Senate Environment, Water & Energy (originally sponsored by Senators Honeyford, Morton, Swecker, Delvin, and Schoesler)

READ FIRST TIME 02/16/11.

1 AN ACT Relating to the unlawful dumping of solid waste; and
2 amending RCW 70.95.240.

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

4 **Sec. 1.** RCW 70.95.240 and 2001 c 139 s 2 are each amended to read
5 as follows:

6 (1) Except as otherwise provided in this section or at a solid
7 waste disposal site for which there is a valid permit, after the
8 adoption of regulations or ordinances by any county, city, or
9 jurisdictional board of health providing for the issuance of permits as
10 provided in RCW 70.95.160, it (~~shall be~~) is unlawful for any person
11 to dump or deposit or permit the dumping or depositing of any solid
12 waste onto or under the surface of the ground or into the waters of
13 this state (~~except at a solid waste disposal site for which there is~~
14 ~~a valid permit~~)).

15 (2) This section does not:

16 (a) Prohibit a person from dumping or depositing solid waste
17 resulting from his or her own activities onto or under the surface of
18 ground owned or leased by him or her when such action does not violate
19 statutes or ordinances, or create a nuisance;

1 (b) Apply to a person using a waste-derived soil amendment that has
2 been approved by the department under RCW 70.95.205; or

3 (c) Apply to the application of commercial fertilizer that has been
4 registered with the department of agriculture as provided in RCW
5 15.54.325, and that is applied in accordance with the standards
6 established in RCW 15.54.800(3).

7 ~~((+2))~~ (3)(a) It is a class 3 civil infraction as defined in RCW
8 7.80.120 for a person to litter in an amount less than or equal to one
9 cubic foot.

10 (b)(i) It is a misdemeanor for a person to litter in an amount
11 greater than one cubic foot but less than one cubic yard. ~~((The~~
12 ~~person))~~

13 (ii) A person found to have littered in an amount greater than one
14 cubic foot, but less than one cubic yard, shall also pay a litter
15 cleanup restitution payment ~~((equal to))~~. This payment must be the
16 greater of twice the actual cost of ~~((cleanup))~~ removing and properly
17 disposing of the litter, or fifty dollars per cubic foot of litter~~((~~
18 whichever is greater)).

19 (iii) The court shall distribute one-half of the restitution
20 payment to the landowner where the littering occurred and one-half of
21 the restitution payment to the jurisdictional health department
22 investigating the incident. If the landowner provided written
23 permission authorizing the littering on his or her property or assisted
24 a person with littering on the landowner's property, the landowner is
25 not entitled to any restitution ordered by the court and the full
26 litter cleanup restitution payment must be provided to the
27 jurisdictional health department investigating the incident.

28 (iv) A jurisdictional health department receiving all or a portion
29 of a litter cleanup restitution payment must use the payment as
30 follows:

31 (A) One-half of the payment may be used by the jurisdictional
32 health department in the fulfillment of its responsibilities under this
33 chapter; and

34 (B) One-half of the payment must be used to assist property owners
35 located within the jurisdiction of the health department with the
36 removal and proper disposal of litter in instances when the person
37 responsible for the illegal dumping of the solid waste cannot be
38 determined.

1 ~~(v)~~ The court may, in addition to ~~((or in lieu of part or all of))~~
2 the litter cleanup restitution payment, order the person to ~~((pick up~~
3 ~~and))~~ remove and properly dispose of the litter from the property, with
4 prior permission of the legal owner or, in the case of public property,
5 of the agency managing the property. The court may suspend or modify
6 the litter cleanup restitution payment for a first-time offender under
7 this section~~((7))~~ if the person ~~((cleans up))~~ removes and properly
8 disposes of the litter.

9 (c)(i) It is a gross misdemeanor for a person to litter in an
10 amount of one cubic yard or more. ~~((The person))~~

11 (ii) A person found to have littered in an amount greater than one
12 cubic yard shall also pay a litter cleanup restitution payment ((equal
13 to)). This payment must be the greater of twice the actual cost of
14 ((cleanup)) removing and properly disposing of the litter, or one
15 hundred dollars per cubic foot of litter((, whichever is greater)).

16 (iii) The court shall distribute one-half of the restitution
17 payment to the landowner where the littering occurred and one-half of
18 the restitution payment to the jurisdictional health department
19 investigating the incident. If the landowner provided written
20 permission authorizing the littering on his or her property or assisted
21 a person with littering on the landowner's property, the landowner is
22 not entitled to any restitution ordered by the court and the full
23 litter cleanup restitution payment must be provided to the
24 jurisdictional health department investigating the incident.

25 (iv) A jurisdictional health department receiving all or a portion
26 of a litter cleanup restitution payment must use the payment as
27 follows:

28 (A) One-half of the payment may be used by the jurisdictional
29 health department in the fulfillment of its responsibilities under this
30 chapter; and

31 (B) One-half of the payment must be used to assist property owners
32 located within the jurisdiction of the health department with the
33 removal and proper disposal of litter in instances when the person
34 responsible for the illegal dumping of the solid waste cannot be
35 determined.

36 ~~(v)~~ The court may, in addition to ~~((or in lieu of part or all of))~~
37 the litter cleanup restitution payment, order the person to ~~((pick up~~
38 ~~and))~~ remove and properly dispose of the litter from the property, with

1 prior permission of the legal owner or, in the case of public property,
2 of the agency managing the property. The court may suspend or modify
3 the litter cleanup restitution payment for a first-time offender under
4 this section(~~(7)~~) if the person (~~(cleans up)~~) removes and properly
5 disposes of the litter.

6 (~~(d)~~) (4) If a junk vehicle is abandoned in violation of this
7 chapter, RCW 46.55.230 governs the vehicle's removal, disposal, and
8 sale, and the penalties that may be imposed against the person who
9 abandoned the vehicle.

10 (5) When enforcing this section, the enforcing authority must take
11 reasonable action to determine and identify the person responsible for
12 illegally dumping solid waste before requiring the owner or lessee of
13 the property where illegal dumping of solid waste has occurred to
14 remove and properly dispose of the litter on the site.

--- END ---