

---

**HOUSE BILL 1540**

---

**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By** Representatives Abbarno, Boehnke, Barkis, Walsh, Ybarra, Klicker, and Chambers

Read first time 02/16/21. Referred to Committee on Environment & Energy.

1 AN ACT Relating to addressing illicit discharges of wastewater  
2 pollution associated with individuals residing in vehicles; amending  
3 RCW 90.48.144, 36.89.080, 35.67.020, and 90.48.120; adding new  
4 sections to chapter 90.48 RCW; creating new sections; and prescribing  
5 penalties.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that some  
8 communities are encountering negative impacts to the environment and  
9 water quality caused when people are unable to find permanent  
10 housing. There is a need to improve government accountability by  
11 focusing resources on the problem of illicit dischargers of  
12 wastewater into storm drains that flow into critical aquifers that  
13 provide drinking water, bodies of water, flood ways, and flood zones.  
14 This act provides some tools to help communities address issues  
15 surrounding illicit discharges connected to vehicles setting up  
16 residence on public property never intended for this purpose. This  
17 act adds flexibility to existing funding sources, keeping in mind the  
18 restrictions of Article VIII, section 7 of the state Constitution  
19 that aid can be provided to support the poor and infirm, and empowers  
20 the department of ecology and local governments to apply meaningful

1 enforcement that results in improved conditions and safer  
2 communities.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 90.48  
4 RCW to read as follows:

5 (1) As a supplementary component of the requirements of municipal  
6 stormwater permits issued under this chapter, each permittee must  
7 establish a program to identify and prevent illicit discharges from  
8 vehicles used as residences into critical aquifers, municipal  
9 stormwater systems, and connected waters in portions of the  
10 jurisdiction covered by the permit that include the activities  
11 described in sections 3 and 4 of this act.

12 (2) Each permittee must establish a program to identify and  
13 report to the department locations where there is a substantial  
14 potential for pollution from illicit discharges arising from people  
15 residing in vehicles that are parked overnight in parking lots or on  
16 public rights-of-way and highways as defined in RCW 47.04.010 that  
17 are near sources of drinking water, critical aquifers, and stormwater  
18 drains that flow directly to flood plains or waters of the state. The  
19 program may include:

20 (a) Notification and outreach to operators or inhabitants of  
21 vehicles regarding available options for the safe and legal disposal  
22 of wastewater;

23 (b) Enforcement of the provisions of section 3 of this act;

24 (c) The provision of wastewater disposal options consistent with  
25 section 4 of this act; and

26 (d) Orders for vehicles to be moved while providing other  
27 locations to legally park.

28 (3) For the purposes of this section, "permittee" means a city or  
29 county that is required to obtain a municipal stormwater general  
30 permit issued by the department under this chapter.

31 NEW SECTION. **Sec. 3.** A new section is added to chapter 90.48  
32 RCW to read as follows:

33 (1) Local governments may enact an ordinance to prohibit  
34 overnight parking of recreational vehicles or other motor vehicles to  
35 prevent the illicit discharge of human waste or other chemicals from  
36 vehicles on public rights-of-way, highways, or parking lots that are  
37 adjacent to critical aquifers, state waters, or stormwater

1 infrastructure that connects directly to state waters without  
2 pretreatment.

3 (2) The provisions of subsection (1) of this section do not apply  
4 to locations featuring on-site infrastructure intended to allow the  
5 pumpout or draining of wastewater from recreational vehicles.

6 (3) Local governments may conduct outreach focused for persons  
7 that own, operate, or inhabit a vehicle in violation of subsection  
8 (1) of this section. Outreach offered under this subsection may  
9 include personal interactions or the conspicuous placement of notices  
10 on vehicle entry doors or windshields, with the intention of  
11 informing the person regarding available wastewater disposal options,  
12 other locations to park that are less environmentally sensitive, or  
13 information about services that provide housing. Information provided  
14 to persons in violation of subsection (1) of this section must  
15 include information regarding the location of nearby facilities or  
16 services allowing for the disposal of wastewater from recreational  
17 vehicles, and the cost of such service, if this information is  
18 available.

19 (4)(a) There is a presumption that a substantial potential to  
20 pollute exists, consistent with the standard in RCW 90.48.120(1),  
21 when a vehicle is allowed to park overnight for more than 24 hours  
22 with a person residing in the vehicle.

23 (b) In addition to the authority granted to the department in RCW  
24 90.48.120, a local government may notify a person who owns, operates,  
25 or inhabits a vehicle described in subsection (1) of this section of  
26 the local government's determination that there is a substantial  
27 potential of violation of the provisions of this chapter. The local  
28 government may direct that the vehicle be moved. The ordinance may  
29 provide anywhere from 24 hours to seven days' notice before a  
30 violation will be issued under this section dependent on the threat  
31 to public and environmental health particular to the circumstances.  
32 If a motor vehicle is equipped with wastewater storage capacity, the  
33 local government may allow a person to produce a copy of a receipt or  
34 other credible evidence demonstrating that the person used available  
35 legal wastewater disposal options for the vehicle either after  
36 receiving the notice or in the 14 days prior to receiving the notice.  
37 The failure to cease parking in targeted portions of a jurisdiction  
38 or to file a copy of a receipt or other credible evidence with the  
39 local government after receiving a notice of determination is subject  
40 to a class 3 civil infraction under RCW 7.80.120.

1 (c) Local governments are encouraged to prioritize enforcement in  
2 areas near drinking water sources, critical aquifers, and where  
3 elevated levels of fecal coliform have been found in receiving waters  
4 or stormwater infrastructure.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 90.48  
6 RCW to read as follows:

7 (1) In order to address illicit discharges of wastewater from  
8 motor vehicles equipped with wastewater storage capacity, each city  
9 with a population of at least 600,000, as determined by the office of  
10 financial management, must either:

11 (a) Make available and post information on its website regarding  
12 facilities or services allowing for low-cost or no-cost disposal of  
13 domestic wastewater from recreational vehicle and other motor vehicle  
14 wastewater storage tanks; or

15 (b) Post information on the city's website regarding privately  
16 owned resources within the jurisdictional boundaries of the city that  
17 provide services specified in (a) of this subsection to the public.

18 (2) Local governments not subject to the provisions in subsection  
19 (1) of this section are authorized to provide such services as well.

20 NEW SECTION. **Sec. 5.** (1) The department of ecology must compile  
21 and make available on its website a resource that lists or maps  
22 locations where the pumpout of domestic wastewater is made available  
23 for vehicles at low-cost or no-cost to the vehicle operator.

24 (2) The department of ecology must investigate water quality  
25 impacts associated with concentrations of vehicles reported to the  
26 department of ecology by cities and counties and the department of  
27 transportation, continue monitoring areas of concern, and take  
28 appropriate action to reduce or stop illicit discharges and to  
29 mitigate negative impacts of illicit discharges using available  
30 resources.

31 (3) The department of ecology and the Washington state patrol may  
32 enforce the provisions of this chapter with respect to illicit  
33 discharges as provided in RCW 90.48.144.

34 **Sec. 6.** RCW 90.48.144 and 1995 c 403 s 636 are each amended to  
35 read as follows:

1        (1) Except as provided in RCW 43.05.060 through 43.05.080  
2 ((and)), 43.05.150, and subsection (2) of this section, every person  
3 who:

4        ((1)) (a) Violates the terms or conditions of a waste discharge  
5 permit issued pursuant to RCW 90.48.180 or 90.48.260 through  
6 90.48.262, or

7        ((2)) (b) Conducts a commercial or industrial operation or  
8 other point source discharge operation without a waste discharge  
9 permit as required by RCW 90.48.160 or 90.48.260 through 90.48.262,  
10 or

11        ((3)) (c) Violates the provisions of RCW 90.48.080, or other  
12 sections of this chapter or chapter 90.56 RCW or rules or orders  
13 adopted or issued pursuant to either of those chapters, shall incur,  
14 in addition to any other penalty as provided by law, a penalty in an  
15 amount of up to ten thousand dollars a day for every such violation.  
16 Each and every such violation shall be a separate and distinct  
17 offense, and in case of a continuing violation, every day's  
18 continuance shall be and be deemed to be a separate and distinct  
19 violation. Every act of commission or omission which procures, aids  
20 or abets in the violation shall be considered a violation under the  
21 provisions of this section and subject to the penalty herein provided  
22 for. The penalty amount shall be set in consideration of the previous  
23 history of the violator and the severity of the violation's impact on  
24 public health and/or the environment in addition to other relevant  
25 factors. The penalty herein provided for shall be imposed pursuant to  
26 the procedures set forth in RCW 43.21B.300.

27        (2)(a) The city, county, local law enforcement, department, or  
28 Washington state patrol may notify a person who owns, operates, or  
29 inhabits a vehicle parked overnight of the determination that there  
30 is a substantial potential of violation of the provisions of this  
31 chapter if the vehicle is parked in a public right-of-way, public  
32 parking lot, or highway, as defined in RCW 47.04.010, that is  
33 adjacent to state waters or that is served by stormwater  
34 infrastructure that connects directly to state waters without  
35 pretreatment. The notice must be conspicuously placed on a vehicle  
36 entry door or windshield and may contain information regarding low-  
37 cost or no-cost domestic wastewater disposal facilities or services.

38        (b) A vehicle identified in this section may be directed to be  
39 moved. The notice may provide anywhere from 24 hours to seven days  
40 before a violation will be issued under this section dependent on the

1 threat to public and environmental health particular to the  
2 circumstance. If a motor vehicle is equipped with wastewater storage  
3 capacity, the government agency enforcing this section may allow a  
4 person to produce a copy of a receipt or other credible evidence  
5 demonstrating that the person used available legal wastewater  
6 disposal options for the vehicle either after receiving the notice or  
7 in the 14 days prior to receiving the notice. The failure to cease  
8 parking in targeted portions of a jurisdiction or to file a copy of a  
9 receipt or other credible evidence with the government agency  
10 enforcing this section after receiving a notice of determination is  
11 subject to a class 3 civil infraction under RCW 7.80.120. The  
12 department or Washington state patrol may issue a civil penalty of up  
13 to \$50 to a person that presents a potential to pollute as described  
14 in this subsection (2).

15 **Sec. 7.** RCW 36.89.080 and 2003 c 394 s 3 are each amended to  
16 read as follows:

17 (1) Subject to subsections (2) and (3) of this section, any  
18 county legislative authority may provide by resolution for revenues  
19 by fixing rates and charges for the furnishing of service to those  
20 served or receiving benefits or to be served or to receive benefits  
21 from any stormwater control facility or contributing to an increase  
22 of surface water runoff. In fixing rates and charges, the county  
23 legislative authority may in its discretion consider:

24 (a) Services furnished or to be furnished;

25 (b) Benefits received or to be received;

26 (c) The character and use of land or its water runoff  
27 characteristics;

28 (d) The nonprofit public benefit status, as defined in RCW  
29 24.03.490, of the land user;

30 (e) Income level of persons served or provided benefits under  
31 this chapter, including senior citizens and ~~((disabled persons))~~  
32 individuals with disabilities; or

33 (f) Any other matters which present a reasonable difference as a  
34 ground for distinction.

35 (2) The rate a county may charge under this section for  
36 stormwater control facilities shall be reduced by a minimum of ten  
37 percent for any new or remodeled commercial building that utilizes a  
38 permissive rainwater harvesting system. Rainwater harvesting systems  
39 shall be properly sized to utilize the available roof surface of the

1 building. The jurisdiction shall consider rate reductions in excess  
2 of ten percent dependent upon the amount of rainwater harvested.

3 (3) Rates and charges authorized under this section may not be  
4 imposed on lands taxed as forestland under chapter 84.33 RCW or as  
5 timberland under chapter 84.34 RCW.

6 (4) The service charges and rates collected shall be deposited in  
7 a special fund or funds in the county treasury to be used only for  
8 the purpose of paying all or any part of the cost and expense of  
9 maintaining and operating stormwater control facilities, all or any  
10 part of the cost and expense of planning, designing, establishing,  
11 acquiring, developing, constructing, and improving any of such  
12 facilities, ~~((or))~~ to pay or secure the payment of all or any portion  
13 of any issue of general obligation or revenue bonds issued for such  
14 purpose, or to coordinate and provide low-cost or no-cost wastewater  
15 disposal services for vehicles used as residences, in compliance with  
16 the restrictions of Article VIII, section 7 of the state  
17 Constitution.

18 **Sec. 8.** RCW 35.67.020 and 2003 c 394 s 1 are each amended to  
19 read as follows:

20 (1) Every city and town may construct, condemn and purchase,  
21 acquire, add to, maintain, conduct, and operate systems of sewerage  
22 and systems and plants for refuse collection and disposal together  
23 with additions, extensions, and betterments thereto, within and  
24 without its limits. Every city and town has full jurisdiction and  
25 authority to manage, regulate, and control them and, except as  
26 provided in subsection (3) of this section, to fix, alter, regulate,  
27 and control the rates and charges for their use. The rates and  
28 charges authorized in this section may be used to coordinate and  
29 provide low-cost or no-cost wastewater disposal services for vehicles  
30 used as residences, in compliance with the restrictions of Article  
31 VIII, section 7 of the state Constitution.

32 (2) Subject to subsection (3) of this section, the rates charged  
33 under this section must be uniform for the same class of customers or  
34 service and facilities furnished. In classifying customers served or  
35 service and facilities furnished by such system of sewerage, the city  
36 or town legislative body may in its discretion consider any or all of  
37 the following factors:

38 (a) The difference in cost of service and facilities to the  
39 various customers;

1 (b) The location of the various customers within and without the  
2 city or town;

3 (c) The difference in cost of maintenance, operation, repair, and  
4 replacement of the various parts of the system;

5 (d) The different character of the service and facilities  
6 furnished various customers;

7 (e) The quantity and quality of the sewage delivered and the time  
8 of its delivery;

9 (f) The achievement of water conservation goals and the  
10 discouragement of wasteful water use practices;

11 (g) Capital contributions made to the system, including but not  
12 limited to, assessments;

13 (h) The nonprofit public benefit status, as defined in RCW  
14 24.03.490, of the land user; and

15 (i) Any other matters which present a reasonable difference as a  
16 ground for distinction.

17 (3) The rate a city or town may charge under this section for  
18 storm or surface water sewer systems or the portion of the rate  
19 allocable to the storm or surface water sewer system of combined  
20 sanitary sewage and storm or surface water sewer systems shall be  
21 reduced by a minimum of ten percent for any new or remodeled  
22 commercial building that utilizes a permissive rainwater harvesting  
23 system. Rainwater harvesting systems shall be properly sized to  
24 utilize the available roof surface of the building. The jurisdiction  
25 shall consider rate reductions in excess of ten percent dependent  
26 upon the amount of rainwater harvested.

27 (4) Rates or charges for on-site inspection and maintenance  
28 services may not be imposed under this chapter on the development,  
29 construction, or reconstruction of property.

30 (5) A city or town may provide assistance to aid low-income  
31 persons in connection with services provided under this chapter.

32 (6) Under this chapter, after July 1, 1998, any requirements for  
33 pumping the septic tank of an on-site sewage system should be based,  
34 among other things, on actual measurement of accumulation of sludge  
35 and scum by a trained inspector, trained owner's agent, or trained  
36 owner. Training must occur in a program approved by the state board  
37 of health or by a local health officer.

38 (7) Before adopting on-site inspection and maintenance utility  
39 services, or incorporating residences into an on-site inspection and  
40 maintenance or sewer utility under this chapter, notification must be



1 provided, prior to the applicable public hearing, to all residences  
2 within the proposed service area that have on-site systems permitted  
3 by the local health officer. The notice must clearly state that the  
4 residence is within the proposed service area and must provide  
5 information on estimated rates or charges that may be imposed for the  
6 service.

7 (8) A city or town shall not provide on-site sewage system  
8 inspection, pumping services, or other maintenance or repair services  
9 under this section using city or town employees unless the on-site  
10 system is connected by a publicly owned collection system to the city  
11 or town's sewerage system, and the on-site system represents the  
12 first step in the sewage disposal process. Nothing in this section  
13 shall affect the authority of state or local health officers to carry  
14 out their responsibilities under any other applicable law.

15 **Sec. 9.** RCW 90.48.120 and 1992 c 73 s 25 are each amended to  
16 read as follows:

17 (1) Whenever, in the opinion of the department, any person shall  
18 violate or creates a substantial potential to violate the provisions  
19 of this chapter or chapter 90.56 RCW, or fails to control the  
20 polluting content of waste discharged or to be discharged into any  
21 waters of the state, the department shall notify such person of its  
22 determination by registered mail. Such determination shall not  
23 constitute an order or directive under RCW 43.21B.310. Within thirty  
24 days from the receipt of notice of such determination, such person  
25 shall file with the department a full report stating what steps have  
26 been and are being taken to control such waste or pollution or to  
27 otherwise comply with the determination of the department. Whereupon  
28 the department shall issue such order or directive as it deems  
29 appropriate under the circumstances, and shall notify such person  
30 thereof by registered mail. A person described in section 3 of this  
31 act that creates a substantial potential to violate the provisions of  
32 this chapter may alternatively, or in addition to, receive  
33 notification of a determination from a permittee consistent with the  
34 provisions of section 3 of this act or from the department or  
35 Washington state patrol consistent with RCW 90.48.144(2).

36 (2) Whenever the department deems immediate action is necessary  
37 to accomplish the purposes of this chapter or chapter 90.56 RCW, it  
38 may issue such order or directive, as appropriate under the  
39 circumstances, without first issuing a notice or determination

1 pursuant to subsection (1) of this section. An order or directive  
2 issued pursuant to this subsection shall be served by registered mail  
3 or personally upon any person to whom it is directed.

--- **END** ---