

HOUSE BILL REPORT

SSB 6194

As Reported By House Committee On:

Natural Resources

Title: An act relating to unlawful rural garbage disposal.

Brief Description: Attempting to limit the incidents of rural garbage dumping.

Sponsors: Senate Committee on Natural Resources, Parks & Recreation (originally sponsored by Senators T. Sheldon, Oke, Jacobsen, Stevens, Morton, Rasmussen, Gardner and Spanel).

Brief History:

Committee Activity:

Natural Resources: 2/23/00, 2/25/00 [DPA].

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

- Increases penalties for illegal dumping in rural areas.
- Increases penalties for abandoning vehicles in rural areas.
- Makes vehicles and other conveyances subject to seizure and forfeiture for major violations.

HOUSE COMMITTEE ON NATURAL RESOURCES

Majority Report: Do pass as amended. Signed by 11 members: Representatives Buck, Republican Co-Chair; Regala, Democratic Co-Chair; Anderson, Democratic Vice Chair; Sump, Republican Vice Chair; G. Chandler; Clements; Doumit; Eickmeyer; Ericksen; Pennington and Stensen.

Staff: Bill Lynch (786-7092).

Background:

Illegal dumping of solid waste in rural areas has been an increasing problem. In 1998 the Legislature added solid waste that is illegally dumped to the definition of littering. Law enforcement agencies often lack the financial resources to patrol against dumping. Landowners are often forced to pay the costs for cleaning up illegally dumped materials. Some landowners have reduced public access to their lands to try to curb illegal dumping.

It is a class 3 civil infraction for a person to litter in an amount less than or equal to one cubic foot. The maximum penalty for a class 3 civil infraction is \$50 plus any statutory assessments.

If a person litters in an amount greater than one cubic foot, it is punishable as a class 1 civil infraction. A person who commits a class 1 civil infraction may have a maximum penalty of \$250 imposed, plus any statutory assessments. When a person litters in an amount greater than one cubic foot, a court may impose a litter cleanup fee of \$25 per cubic foot of litter, and may order the person to pick up and remove the litter with the prior permission of the landowner.

Fines received for littering are deposited into the waste reduction, recycling, and litter control account.

Summary of Amended Bill:

It is a misdemeanor to litter more than one cubic foot but less than five cubic yards in an unincorporated area. A misdemeanor is punishable by imprisonment in the county jail for a maximum of 90 days, or by a fine of not more than \$1,000, or both. The person must also pay a litter cleanup restitution payment equal to twice the actual cost of cleanup, or \$50 per cubic foot of litter, whichever is more. The court may also order the person to pick up and remove the litter with the prior permission of the landowner.

It is a gross misdemeanor for a person to litter in an amount of five cubic yards or more in an unincorporated area of a county. A gross misdemeanor is punishable by imprisonment in the county jail for a maximum of one year, or a fine of not more than \$5,000, or both. The person must also pay a cleanup restitution payment equal to twice the actual costs of cleanup or \$100 per cubic foot of litter, whichever is greater. The court may order the person to pick up and remove the litter with the prior permission of the property owner.

The court is required to distribute one-half of the restitution payment for littering in an unincorporated area to the landowner, and the other one-half of the restitution payment is distributed to the law enforcement agency or jurisdictional health department investigating the incident.

If a person is arrested for illegally dumping litter in an amount of five cubic yards or more in an unincorporated area, law enforcement officers may seize without warrant any vehicles or other items that were used in the violation, unless the violation was inadvertent. The seized property is subject to forfeiture if the person charged with the violation owns the property. If a conveyance is encumbered by a perfected security interest, the forfeiture is subject to the interest of the secured party if the secured party had no knowledge of and did not consent to the action. A person may contest the forfeiture in a proceeding before an administrative law judge, but may remove the hearing to a court of competent jurisdiction if the aggregate value of the property exceeds \$5,000. If seized property is forfeited, the law enforcement agency may, after satisfying any security interest in the property, retain for official use, release the property for use by another law enforcement agency, or sell the property and use the proceeds to improve enforcement of the agency's litter control activity.

It is a misdemeanor for a person to abandon a junk vehicle in an unincorporated area. The vehicle's registered owner must also pay a cleanup restitution payment equal to twice the cost for removal of the vehicle. The court must distribute one-half of the restitution payment to the landowner, and one-half of the restitution payment to the law enforcement agency or jurisdictional health department investigating the incident.

Amended Bill Compared to Substitute Bill: Removes language pertaining to illegally dumping hazardous substances. Increases the threshold for forfeiture of vehicles and conveyances to littering of five or more cubic yards. Forfeiture provisions are linked to an arrest rather than a conviction. Secured parties are protected from forfeiture in a manner similar to protections provided under DUI laws. Abandoning a junk vehicle in an unincorporated area is made a misdemeanor. Penalties for rural garbage dumping are added to the solid waste statutes.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: There are increasing piles of garbage, furniture, and appliances in rural areas. With more dumping occurring, people feel more inclined to illegally dump themselves. This makes the penalty for illegal dumping the same as for shoplifting. Property owners are closing off their land to the public because of dumping and vandalism. Drug waste is also a problem. This is a useful tool because it allows some of the funding to go back into enforcement. Abandoned vehicles are an increasing problem, including on public lands. The amount of garbage picked up on roadsides has

tripled in recent years, but the roads are still not as clean as they were before. Additional incentives will help.

(Concerns) The bill should be amended to better protect secured parties. Forfeiture should be tied to the arrest rather than a conviction. The solid waste statutes should also be amended to include similar penalties.

Testimony Against: None.

Testified: Senator Tim Sheldon, prime sponsor; Tim Boyd, Washington Forest Protection Association; Len Barson, Nature Conservancy; Dan Coyne, Simpson Timber Co.; Paul Silver, Department of Natural Resources; and Cullen Stephenson Department of Ecology.

(Concerns) Lisa Thatcher, Washington State Auto Dealers Association; Gary Gardner, Boeing Employees Credit Union; and Bruce Bjork and Evan Jacoby, Department of Fish and Wildlife.