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**SUBSTITUTE SENATE BILL 5350**

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**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) After the adoption of regulations or ordinances by any county,  
7 city, or jurisdictional board of health providing for the issuance of  
8 permits as provided in RCW 70.95.160, it shall be unlawful for any  
9 person to dump or deposit or permit the dumping or depositing of any  
10 solid waste onto or under the surface of the ground or into the waters  
11 of this state except at a solid waste disposal site for which there is  
12 a valid permit. This section does not:

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

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

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

5 (2) When enforcing this section, the enforcing authority shall make  
6 every effort to determine and identify the person responsible for  
7 illegally dumping solid waste before requiring the owner or lessee of  
8 the property where illegal dumping has occurred to clean up the site.

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

12 (b) It is a misdemeanor for a person to litter in an amount greater  
13 than one cubic foot but less than one cubic yard. The person shall  
14 also pay a litter cleanup restitution payment equal to twice the actual  
15 cost of cleanup, or fifty dollars per cubic foot of litter, whichever  
16 is greater. The court shall distribute one-half of the restitution  
17 payment to the landowner and one-half of the restitution payment to the  
18 jurisdictional health department investigating the incident. The  
19 jurisdictional health department must reserve one-half of the  
20 restitution payment to assist property owners with clean up when the  
21 person responsible for the illegal dumping of solid waste cannot be  
22 determined. The court may, in addition to ~~((or in lieu of part or all~~  
23 ~~of))~~ the cleanup restitution payment, order the person to pick up and  
24 remove litter from the property, with prior permission of the legal  
25 owner or, in the case of public property, of the agency managing the  
26 property. The court may suspend or modify the litter cleanup  
27 restitution payment for a first-time offender under this section, if  
28 the person cleans up and properly disposes of the litter.

29 (c) It is a gross misdemeanor for a person to litter in an amount  
30 of one cubic yard or more. The person shall also pay a litter cleanup  
31 restitution payment equal to twice the actual cost of cleanup, or one  
32 hundred dollars per cubic foot of litter, whichever is greater. The  
33 court shall distribute one-half of the restitution payment to the  
34 landowner and one-half of the restitution payment to the jurisdictional  
35 health department investigating the incident. The jurisdictional  
36 health department must reserve one-half of the restitution payment to  
37 assist property owners with clean up when the person responsible for  
38 the illegal dumping of solid waste cannot be determined. The court

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

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

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