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**HOUSE BILL 2507**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representatives Irwin, Barkis, Chambers, Fitzgibbon, Walsh, MacEwen, Griffey, Leavitt, Gildon, and Graham

Read first time 01/15/20. Referred to Committee on Environment & Energy.

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

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

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

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

1       **DEFINITIONS.** The definitions in this section apply throughout  
2 sections 3 through 6 of this act unless the context clearly requires  
3 otherwise.

4       (1) "High concentrations of wastewater-containing vehicles" means  
5 a location where a permittee has observed or received reports, on  
6 three or more instances in a single week, of at least three  
7 recreational vehicles or other motor vehicles likely to have the  
8 capacity to store wastewater, that are located on a public street,  
9 right-of-way, or parking lot not intended for overnight parking.

10       (2) "Permittee" means a city or county that is required to obtain  
11 a municipal stormwater general permit issued by the department under  
12 this chapter.

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

15       **ILLICIT DISCHARGE PREVENTION PROGRAM FOR MUNICIPAL STORMWATER**  
16 **PERMIT HOLDERS.** (1) As a supplementary component of the requirements  
17 of municipal stormwater permits issued under this chapter, each  
18 permittee must establish a program to prevent illicit discharges into  
19 municipal stormwater systems and connected waters in portions of the  
20 jurisdiction covered by the permit that include the activities  
21 described in sections 4 and 5 of this act.

22       (2) Each permittee must establish a program to identify and  
23 report to the department locations where there is a substantial  
24 potential for pollution from illicit discharges, consistent with the  
25 standard established in RCW 90.48.120(1), arising from high  
26 concentrations of wastewater-containing vehicles or vehicles parked  
27 overnight in parking lots open to the public, and on public rights-  
28 of-way and highways as defined in RCW 47.04.010. The program may  
29 include:

30       (a) Notification and outreach to operators or inhabitants of  
31 vehicles with domestic wastewater storage capacity regarding  
32 available options for the safe and legal disposal of wastewater;

33       (b) Enforcement of the provisions of section 4 of this act; and

34       (c) The provision of wastewater disposal options consistent with  
35 section 5 of this act.

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

1           **ILLICIT DISCHARGE PREVENTION PROGRAM: RESTRICTIONS ON PARKING.**

2       (1) In portions of a jurisdiction subject to permit conditions, a  
3       permittee may enact an ordinance to prohibit the following on public  
4       rights-of-way, highways as defined in RCW 47.04.010, or parking lots  
5       adjacent to state waters or that are served by stormwater  
6       infrastructure that connects directly to state waters without  
7       pretreatment discharge permitted under the provisions of this  
8       chapter:

9           (a) Overnight parking of recreational vehicles or other vehicles  
10       with domestic wastewater storage capacity; or

11          (b) High concentrations of wastewater-containing vehicles.

12       (2) The provisions of subsection (1) of this section do not apply  
13       to locations featuring on-site infrastructure intended to allow the  
14       pump-out or draining of wastewater from recreational vehicles.

15       (3) Permittees may conduct outreach targeted at persons that own,  
16       operate, or inhabit a vehicle in violation of subsection (1) of this  
17       section. Outreach offered under this subsection may include personal  
18       interactions or the conspicuous placement of notices on vehicle entry  
19       doors or windshields, with the intention of informing the person  
20       regarding available wastewater disposal options. Information provided  
21       to persons in violation of subsection (1) of this section must  
22       include information regarding the location of nearby facilities or  
23       services allowing for the disposal of wastewater from recreational  
24       vehicles, and the cost of such service, if this information is  
25       available.

26       (4) (a) There is a presumption that a substantial potential to  
27       pollute exists, consistent with the standard in RCW 90.48.120(1),  
28       when a vehicle with domestic wastewater storage capacity is allowed  
29       to park overnight or is located within a high concentration of  
30       vehicles.

31       (b) In addition to the authority granted to the department in RCW  
32       90.48.120, a permittee may notify a person who owns, operates, or  
33       inhabits a vehicle described in subsection (1) of this section of the  
34       permittee's determination that there is a substantial potential of  
35       violation of the provisions of this chapter. Within thirty days of  
36       the receipt of notice of such a determination, such a person must  
37       cease parking the vehicle in the targeted portion of the jurisdiction  
38       or file with the permittee a copy of a receipt or other credible  
39       evidence demonstrating that the person used available legal  
40       wastewater disposal options for the vehicle either after receiving

1 the notice or in the fourteen days prior to receiving the notice. The  
2 failure to cease parking in targeted portions of a jurisdiction or to  
3 file a copy of a receipt or other credible evidence with the  
4 permittee after receiving a notice of determination is subject to a  
5 class 3 civil infraction under RCW 7.80.120.

6 (c) Permittees are encouraged to prioritize enforcement in areas  
7 where elevated levels of fecal coliform have been found in receiving  
8 waters or stormwater infrastructure.

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

11 **ILLICIT DISCHARGE PREVENTION PROGRAM: WASTEWATER DISPOSAL**  
12 **FACILITIES AND SERVICES.** (1) In order to address illicit discharges  
13 of wastewater from motor vehicles equipped with wastewater storage  
14 capacity, each city with a population of at least six hundred  
15 thousand, as determined by the office of financial management, must  
16 either:

17 (a) Make available and post information on its web site regarding  
18 facilities or services allowing for low-cost or no-cost disposal of  
19 domestic wastewater from recreational vehicle and other motor vehicle  
20 wastewater storage tanks; or

21 (b) Post information on the permittee's web site regarding  
22 privately-owned resources within the jurisdictional boundaries of the  
23 permittee that provide services specified in (a) of this subsection  
24 to the public.

25 (2) Cities and counties not specified in subsection (1) of this  
26 section are encouraged to make domestic wastewater disposal  
27 facilities or services available to motor vehicles.

28 NEW SECTION. **Sec. 6. ILLICIT DISCHARGE ELIMINATION**  
29 **RESPONSIBILITIES OF THE DEPARTMENT OF ECOLOGY AND THE WASHINGTON**  
30 **STATE PATROL.** (1) The department must compile and make available on  
31 the department's web site a resource that lists or maps locations  
32 where the pump-out of domestic wastewater is made available for  
33 vehicles at low-cost or no-cost to the vehicle operator.

34 (2) The department must investigate water quality impacts  
35 associated with concentrations of wastewater-containing vehicles  
36 reported to the department by cities and counties, continue  
37 monitoring areas of concern, and take appropriate action to reduce or

1 stop illicit discharges and to mitigate negative impacts of illicit  
2 discharges using available resources.

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

6 **Sec. 7.** RCW 90.48.144 and 1995 c 403 s 636 are each amended to  
7 read as follows:

8 **AMENDMENTS TO STATE WATER POLLUTION CONTROL PENALTY PROCEDURES.**

9 (1) Except as provided in RCW 43.05.060 through 43.05.080 (~~and~~),  
10 43.05.150, and subsection (2) of this section, every person who:

11 ~~((1))~~ (a) Violates the terms or conditions of a waste discharge  
12 permit issued pursuant to RCW 90.48.180 or 90.48.260 through  
13 90.48.262, or

14 ~~((2))~~ (b) Conducts a commercial or industrial operation or  
15 other point source discharge operation without a waste discharge  
16 permit as required by RCW 90.48.160 or 90.48.260 through 90.48.262,  
17 or

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

34 (2) (a) The department or the Washington state patrol may notify a  
35 person who owns, operates, or inhabits a vehicle with domestic  
36 wastewater storage capacity parked overnight or in a high  
37 concentration of wastewater-containing vehicles of the determination  
38 that there is a substantial potential of violation of the provisions  
39 of this chapter if the vehicle is parked in a public right-of-way,

1 public parking lot, or highway as defined in RCW 47.04.010 that is  
2 adjacent to state waters or that is served by stormwater  
3 infrastructure that connects directly to state waters without  
4 pretreatment discharge permitted under the provisions of this  
5 chapter. The notice must be conspicuously placed on a vehicle entry  
6 door or windshield and may contain information regarding low-cost or  
7 no-cost domestic wastewater disposal facilities or services.

8 (b) Within thirty days of the receipt of the notice of  
9 determination, such a person must cease parking the vehicle in the  
10 targeted location or file with the permittee a copy of a receipt or  
11 other credible evidence demonstrating that the person used available  
12 legal wastewater disposal options for the vehicle either after  
13 receiving the notice or in the fourteen days prior to receiving the  
14 notice. The department or the Washington state patrol may issue a  
15 civil penalty of up to fifty dollars to a person that presents a  
16 potential to pollute as described in this subsection.

17 **Sec. 8.** RCW 36.89.080 and 2003 c 394 s 3 are each amended to  
18 read as follows:

19 **ALLOWING COUNTY STORMWATER FEES TO BE SPENT ON ILLICIT DISCHARGE**  
20 **PREVENTION ACTIVITIES.** (1) Subject to subsections (2) and (3) of this  
21 section, any county legislative authority may provide by resolution  
22 for revenues by fixing rates and charges for the furnishing of  
23 service to those served or receiving benefits or to be served or to  
24 receive benefits from any stormwater control facility or contributing  
25 to an increase of surface water runoff. In fixing rates and charges,  
26 the county legislative authority may in its discretion consider:

27 (a) Services furnished or to be furnished;

28 (b) Benefits received or to be received;

29 (c) The character and use of land or its water runoff  
30 characteristics;

31 (d) The nonprofit public benefit status, as defined in RCW  
32 24.03.490, of the land user;

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

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

38 (2) The rate a county may charge under this section for  
39 stormwater control facilities shall be reduced by a minimum of ten

1 percent for any new or remodeled commercial building that utilizes a  
2 permissive rainwater harvesting system. Rainwater harvesting systems  
3 shall be properly sized to utilize the available roof surface of the  
4 building. The jurisdiction shall consider rate reductions in excess  
5 of ten percent dependent upon the amount of rainwater harvested.

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

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

21 **Sec. 9.** RCW 35.67.020 and 2003 c 394 s 1 are each amended to  
22 read as follows:

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

36 (2) Subject to subsection (3) of this section, the rates charged  
37 under this section must be uniform for the same class of customers or  
38 service and facilities furnished. In classifying customers served or  
39 service and facilities furnished by such system of sewerage, the city

1 or town legislative body may in its discretion consider any or all of  
2 the following factors:

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

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

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

9 (d) The different character of the service and facilities  
10 furnished various customers;

11 (e) The quantity and quality of the sewage delivered and the time  
12 of its delivery;

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

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

17 (h) The nonprofit public benefit status, as defined in RCW  
18 24.03.490, of the land user; and

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

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

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

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

36 (6) Under this chapter, after July 1, 1998, any requirements for  
37 pumping the septic tank of an on-site sewage system should be based,  
38 among other things, on actual measurement of accumulation of sludge  
39 and scum by a trained inspector, trained owner's agent, or trained



1 owner. Training must occur in a program approved by the state board  
2 of health or by a local health officer.

3 (7) Before adopting on-site inspection and maintenance utility  
4 services, or incorporating residences into an on-site inspection and  
5 maintenance or sewer utility under this chapter, notification must be  
6 provided, prior to the applicable public hearing, to all residences  
7 within the proposed service area that have on-site systems permitted  
8 by the local health officer. The notice must clearly state that the  
9 residence is within the proposed service area and must provide  
10 information on estimated rates or charges that may be imposed for the  
11 service.

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

20 NEW SECTION. **Sec. 10. STUDY OF THE IMPACTS OF ILLICIT**  
21 **DISCHARGES.** (1) The department of ecology must contract to carry out  
22 a study of water quality impacts and impacts to anadromous fish  
23 caused by illicit discharges of any type to state waters, directly or  
24 through stormwater infrastructure, from recreational vehicles or  
25 other vehicles with wastewater storage capacity used as residences  
26 and parked on highways as defined in RCW 47.04.010, in public rights-  
27 of-way, or on publicly owned parking lots, as well as from similar  
28 transitory sources of illicit discharges. The study must:

29 (a) Identify the impacts to the marine environment of common  
30 types of pollutants contained in untreated illicit discharges from  
31 these vehicles; and

32 (b) Assess the measurable impacts on monitored water quality  
33 metrics in state waters from these discharges.

34 (2) To the extent necessary to narrow the scope of the study, the  
35 focus of the study must be on those elements:

36 (a) Considered most toxic or impactful to the marine environment  
37 generally;

38 (b) That have identifiable, practical, cost-effective remedies;  
39 and

1 (c) Considered potentially toxic or otherwise impactful to  
2 southern resident killer whales and the hierarchy of marine species  
3 upon which the southern resident killer whales depend.

4 (3) The study must be designed to indicate whether illicit  
5 discharges from recreational vehicles and other similar sources  
6 represent a potential source of deleterious influence to Puget Sound  
7 organisms, and to southern resident killer whales and the hierarchy  
8 of marine species upon which they depend. The study must include an  
9 assessment of the accumulation of those toxic elements in marine  
10 organisms, either directly or through bioaccumulation, and must  
11 discuss potential impacts on metabolic processes, behavior, and  
12 mortality.

13 (4) By December 1, 2020, the department of ecology must submit  
14 the study, along with associated recommendations, to the legislature  
15 consistent with RCW 43.01.036.

16 **Sec. 11.** RCW 90.48.120 and 1992 c 73 s 25 are each amended to  
17 read as follows:

18 (1) Whenever, in the opinion of the department, any person shall  
19 violate or creates a substantial potential to violate the provisions  
20 of this chapter or chapter 90.56 RCW, or fails to control the  
21 polluting content of waste discharged or to be discharged into any  
22 waters of the state, the department shall notify such person of its  
23 determination by registered mail. Such determination shall not  
24 constitute an order or directive under RCW 43.21B.310. Within thirty  
25 days from the receipt of notice of such determination, such person  
26 shall file with the department a full report stating what steps have  
27 been and are being taken to control such waste or pollution or to  
28 otherwise comply with the determination of the department. Whereupon  
29 the department shall issue such order or directive as it deems  
30 appropriate under the circumstances, and shall notify such person  
31 thereof by registered mail. A person described in section 4 of this  
32 act that creates a substantial potential to violate the provisions of  
33 this chapter may additionally receive notification of a determination  
34 from a permittee consistent with the provisions of section 4 of this  
35 act or from the department or the Washington state patrol consistent  
36 with RCW 90.48.144(2).

37 (2) Whenever the department deems immediate action is necessary  
38 to accomplish the purposes of this chapter or chapter 90.56 RCW, it  
39 may issue such order or directive, as appropriate under the

1 circumstances, without first issuing a notice or determination  
2 pursuant to subsection (1) of this section. An order or directive  
3 issued pursuant to this subsection shall be served by registered mail  
4 or personally upon any person to whom it is directed.

5 NEW SECTION. **Sec. 12.** Captions used in this act are not any  
6 part of the law.

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