

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1409

Chapter 337, Laws of 2003

58th Legislature
2003 Regular Session

LITTERING

EFFECTIVE DATE: 7/27/03

Passed by the House April 21, 2003
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 15, 2003
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved May 16, 2003.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1409** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER

Chief Clerk

FILED

May 16, 2003 - 4:25 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1409

AS AMENDED BY THE SENATE

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Upthegrove, Hunt and Clibborn)

READ FIRST TIME 02/17/03.

1 AN ACT Relating to littering; amending RCW 70.93.030, 70.93.060,
2 7.80.120, 46.61.645, and 36.32.120; creating a new section; repealing
3 RCW 70.93.100; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that the littering
6 of potentially dangerous products poses a greater danger to the public
7 safety than other classes of litter. Broken glass, human waste, and
8 other dangerous materials along roadways, within parking lots, and on
9 pedestrian, bicycle, and recreation trails elevates the risk to public
10 safety, such as vehicle tire punctures, and the risk to the community
11 volunteers who spend their time gathering and properly disposing of the
12 litter left behind by others. As such, the legislature finds that a
13 higher penalty should be imposed on those who improperly dispose of
14 potentially dangerous products, such as is imposed on those who
15 improperly dispose of tobacco products.

16 (2) The legislature further finds that litter is a nuisance, and,
17 in order to alleviate such a nuisance, counties must be provided
18 statutory authority to declare what shall be a nuisance, to abate a

1 nuisance, and to impose and collect fines upon parties who may create,
2 cause, or commit a nuisance.

3 **Sec. 2.** RCW 70.93.030 and 2000 c 154 s 1 are each amended to read
4 as follows:

5 ~~((As used in))~~ The definitions in this section apply throughout
6 this chapter unless the context ~~((indicates))~~ clearly requires
7 otherwise~~((+))~~.

8 (1) "Conveyance" means a boat, airplane, or vehicle~~((+))~~.

9 (2) "Department" means the department of ecology~~((+))~~.

10 (3) "Director" means the director of the department of
11 ecology~~((+))~~.

12 (4) "Disposable package or container" means all packages or
13 containers defined as such by rules ~~((and regulations))~~ adopted by the
14 department of ecology~~((+))~~.

15 (5) "Junk vehicle" has the same meaning as defined in RCW
16 46.55.010~~((+))~~.

17 (6) "Litter" means all waste material including but not limited to
18 disposable packages or containers thrown or deposited as herein
19 prohibited and solid waste that is illegally dumped, but not including
20 the wastes of the primary processes of mining, logging, sawmilling,
21 farming, or manufacturing~~((+))~~. "Litter" includes the material
22 described in subsection (10) of this section as "potentially dangerous
23 litter."

24 (7) "Litter bag" means a bag, sack, or other container made of any
25 material which is large enough to serve as a receptacle for litter
26 inside the vehicle or watercraft of any person. It is not necessarily
27 limited to the state approved litter bag but must be similar in size
28 and capacity~~((+))~~.

29 (8) "Litter receptacle" means those containers adopted by the
30 department of ecology and which may be standardized as to size, shape,
31 capacity, and color and which shall bear the state anti-litter symbol,
32 as well as any other receptacles suitable for the depositing of
33 litter~~((+))~~.

34 (9) "Person" means any political subdivision, government agency,
35 municipality, industry, public or private corporation, copartnership,
36 association, firm, individual, or other entity whatsoever~~((+))~~.

1 (10) "Potentially dangerous litter" means litter that is likely to
2 injure a person or cause damage to a vehicle or other property.

3 "Potentially dangerous litter" means:

4 (a) Cigarettes, cigars, or other tobacco products that are capable
5 of starting a fire;

6 (b) Glass;

7 (c) A container or other product made predominantly or entirely of
8 glass;

9 (d) A hypodermic needle or other medical instrument designed to cut
10 or pierce;

11 (e) Raw human waste, including soiled baby diapers, regardless of
12 whether or not the waste is in a container of any sort; and

13 (f) Nails or tacks.

14 (11) "Public place" means any area that is used or held out for use
15 by the public whether owned or operated by public or private
16 interests((+)).

17 ~~((+11))~~ (12) "Recycling" means transforming or remanufacturing
18 waste materials into a finished product for use other than landfill
19 disposal or incineration((+)).

20 ~~((+12))~~ (13) "Recycling center" means a central collection point
21 for recyclable materials((+)).

22 ~~((+13))~~ (14) "To litter" means a single or cumulative act of
23 disposing of litter((+)).

24 ~~((+14))~~ (15) "Vehicle" includes every device capable of being
25 moved upon a public highway and in, upon, or by which any persons or
26 property is or may be transported or drawn upon a public highway,
27 excepting devices moved by human or animal power or used exclusively
28 upon stationary rails or tracks((+)).

29 ~~((+15))~~ (16) "Waste reduction" means reducing the amount or
30 toxicity of waste generated or reusing materials((+)).

31 ~~((+16))~~ (17) "Watercraft" means any boat, ship, vessel, barge, or
32 other floating craft.

33 **Sec. 3.** RCW 70.93.060 and 2002 c 175 s 45 are each amended to read
34 as follows:

35 (1) It is a violation of this section to abandon a junk vehicle
36 upon any property. In addition, no person shall throw, drop, deposit,
37 discard, or otherwise dispose of litter upon any public property in the

1 state or upon private property in this state not owned by him or her or
2 in the waters of this state whether from a vehicle or otherwise
3 including but not limited to any public highway, public park, beach,
4 campground, forest land, recreational area, trailer park, highway,
5 road, street, or alley except:

6 (a) When the property is designated by the state or its agencies or
7 political subdivisions for the disposal of garbage and refuse, and the
8 person is authorized to use such property for that purpose;

9 (b) Into a litter receptacle in a manner that will prevent litter
10 from being carried away or deposited by the elements upon any part of
11 the private or public property or waters.

12 (2)(a) Except as provided in subsection (4) of this section, it is
13 a class 3 civil infraction as provided in RCW 7.80.120 for a person to
14 litter in an amount less than or equal to one cubic foot.

15 (b) It is a misdemeanor for a person to litter in an amount greater
16 than one cubic foot but less than one cubic yard. The person shall
17 also pay a litter cleanup restitution payment equal to twice the actual
18 cost of cleanup, or fifty dollars per cubic foot of litter, whichever
19 is greater. The court shall distribute one-half of the restitution
20 payment to the landowner and one-half of the restitution payment to the
21 law enforcement agency investigating the incident. The court may, in
22 addition to or in lieu of part or all of the cleanup restitution
23 payment, order the person to pick up and remove litter from the
24 property, with prior permission of the legal owner or, in the case of
25 public property, of the agency managing the property. The court may
26 suspend or modify the litter cleanup restitution payment for a first-
27 time offender under this section, if the person cleans up and properly
28 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 law
35 enforcement agency investigating the incident. The court may, in
36 addition to or in lieu of part or all of the cleanup restitution
37 payment, order the person to pick up and remove litter from the
38 property, with prior permission of the legal owner or, in the case of

1 public property, of the agency managing the property. The court may
2 suspend or modify the litter cleanup restitution payment for a first-
3 time offender under this section, if the person cleans up and properly
4 disposes of the litter.

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

9 (3) If the violation occurs in a state park, the court shall, in
10 addition to any other penalties assessed, order the person to perform
11 twenty-four hours of community restitution in the state park where the
12 violation occurred if the state park has stated an intent to
13 participate as provided in RCW 79A.05.050.

14 (4) It is a class 1 civil infraction as provided in RCW 7.80.120
15 for a person to discard, in violation of this section, ~~((a cigarette,
16 cigar, or other tobacco product that is capable of starting a fire))~~
17 potentially dangerous litter in any amount.

18 **Sec. 4.** RCW 7.80.120 and 1997 c 159 s 2 are each amended to read
19 as follows:

20 (1) A person found to have committed a civil infraction shall be
21 assessed a monetary penalty.

22 (a) The maximum penalty and the default amount for a class 1 civil
23 infraction shall be two hundred fifty dollars, not including statutory
24 assessments, except for an infraction of state law involving ~~((tobacco
25 products))~~ potentially dangerous litter as specified in RCW
26 70.93.060(4), in which case the maximum penalty and default amount is
27 five hundred dollars;

28 (b) The maximum penalty and the default amount for a class 2 civil
29 infraction shall be one hundred twenty-five dollars, not including
30 statutory assessments;

31 (c) The maximum penalty and the default amount for a class 3 civil
32 infraction shall be fifty dollars, not including statutory assessments;
33 and

34 (d) The maximum penalty and the default amount for a class 4 civil
35 infraction shall be twenty-five dollars, not including statutory
36 assessments.

1 (2) The supreme court shall prescribe by rule the conditions under
2 which local courts may exercise discretion in assessing fines for civil
3 infractions.

4 (3) Whenever a monetary penalty is imposed by a court under this
5 chapter it is immediately payable. If the person is unable to pay at
6 that time the court may grant an extension of the period in which the
7 penalty may be paid. If the penalty is not paid on or before the time
8 established for payment, the court may proceed to collect the penalty
9 in the same manner as other civil judgments and may notify the
10 prosecuting authority of the failure to pay.

11 (4) The court may also order a person found to have committed a
12 civil infraction to make restitution.

13 **Sec. 5.** RCW 46.61.645 and 1965 ex.s. c 155 s 77 are each amended
14 to read as follows:

15 (1) ~~((No person shall throw or deposit upon any highway any glass
16 bottle, glass, nails, tacks, wire, cans or any other substance likely
17 to injure any person, animal or vehicle upon such highway.~~

18 ~~(2))~~ Any person who drops, or permits to be dropped or thrown,
19 upon any highway any ~~((destructive or injurious))~~ material shall
20 immediately remove the same or cause it to be removed.

21 ~~((3))~~ (2) Any person removing a wrecked or damaged vehicle from
22 a highway shall remove any glass or other injurious substance dropped
23 upon the highway from such vehicle.

24 **Sec. 6.** RCW 36.32.120 and 1994 c 301 s 8 are each amended to read
25 as follows:

26 The legislative authorities of the several counties shall:

27 (1) Provide for the erection and repairing of court houses, jails,
28 and other necessary public buildings for the use of the county;

29 (2) Lay out, discontinue, or alter county roads and highways within
30 their respective counties, and do all other necessary acts relating
31 thereto according to law, except within cities and towns which have
32 jurisdiction over the roads within their limits;

33 (3) License and fix the rates of ferriage; grant grocery and other
34 licenses authorized by law to be by them granted at fees set by the
35 legislative authorities which shall not exceed the costs of
36 administration and operation of such licensed activities;

1 (4) Fix the amount of county taxes to be assessed according to the
2 provisions of law, and cause the same to be collected as prescribed by
3 law;

4 (5) Allow all accounts legally chargeable against the county not
5 otherwise provided for, and audit the accounts of all officers having
6 the care, management, collection, or disbursement of any money
7 belonging to the county or appropriated to its benefit;

8 (6) Have the care of the county property and the management of the
9 county funds and business and in the name of the county prosecute and
10 defend all actions for and against the county, and such other powers as
11 are or may be conferred by law;

12 (7) Make and enforce, by appropriate resolutions or ordinances, all
13 such police and sanitary regulations as are not in conflict with state
14 law, and within the unincorporated area of the county may adopt by
15 reference Washington state statutes and recognized codes and/or
16 compilations printed in book form relating to the construction of
17 buildings, the installation of plumbing, the installation of electric
18 wiring, health, or other subjects, and may adopt such codes and/or
19 compilations or portions thereof, together with amendments thereto, or
20 additions thereto: PROVIDED, That except for Washington state
21 statutes, there shall be filed in the county auditor's office one copy
22 of such codes and compilations ten days prior to their adoption by
23 reference, and additional copies may also be filed in library or city
24 offices within the county as deemed necessary by the county legislative
25 authority: PROVIDED FURTHER, That no such regulation, code,
26 compilation, and/or statute shall be effective unless before its
27 adoption, a public hearing has been held thereon by the county
28 legislative authority of which at least ten days' notice has been
29 given. Any violation of such regulations, ordinances, codes,
30 compilations, and/or statutes or resolutions shall constitute a
31 misdemeanor or a civil violation subject to a monetary penalty:
32 PROVIDED FURTHER, That violation of a regulation, ordinance, code,
33 compilation, and/or statute relating to traffic including parking,
34 standing, stopping, and pedestrian offenses is a traffic infraction,
35 except that violation of a regulation, ordinance, code, compilation,
36 and/or statute equivalent to those provisions of Title 46 RCW set forth
37 in RCW 46.63.020 remains a misdemeanor. However, the punishment for
38 any criminal ordinance shall be the same as the punishment provided in

1 state law for the same crime and no act that is a state crime may be
2 made a civil violation. The notice must set out a copy of the proposed
3 regulations or summarize the content of each proposed regulation; or if
4 a code is adopted by reference the notice shall set forth the full
5 official title and a statement describing the general purpose of such
6 code. For purposes of this subsection, a summary shall mean a brief
7 description which succinctly describes the main points of the proposed
8 regulation. When the county publishes a summary, the publication shall
9 include a statement that the full text of the proposed regulation will
10 be mailed upon request. An inadvertent mistake or omission in
11 publishing the text or a summary of the content of a proposed
12 regulation shall not render the regulation invalid if it is adopted.
13 The notice shall also include the day, hour, and place of hearing and
14 must be given by publication in the newspaper in which legal notices of
15 the county are printed;

16 (8) Have power to compound and release in whole or in part any debt
17 due to the county when in their opinion the interest of their county
18 will not be prejudiced thereby, except in cases where they or any of
19 them are personally interested;

20 (9) Have power to administer oaths or affirmations necessary in the
21 discharge of their duties and commit for contempt any witness refusing
22 to testify before them with the same power as district judges;

23 (10) Have power to declare by ordinance what shall be deemed a
24 nuisance within the county, including but not limited to "litter" and
25 "potentially dangerous litter" as defined in RCW 70.93.030; to prevent,
26 remove, and abate a nuisance at the expense of the parties creating,
27 causing, or committing the nuisance; and to levy a special assessment
28 on the land or premises on which the nuisance is situated to defray the
29 cost, or to reimburse the county for the cost of abating it. This
30 assessment shall constitute a lien against the property which shall be
31 of equal rank with state, county, and municipal taxes.

32 NEW SECTION. Sec. 7. RCW 70.93.100 (Litter bags--Design and
33 distribution by department authorized--Violations--Penalties) and 1981
34 c 260 s 15 are each repealed.

Passed by the House April 21, 2003.

Passed by the Senate April 15, 2003.

Approved by the Governor May 16, 2003.

Filed in Office of Secretary of State May 16, 2003.