**2207-S.E AMS WM S5562.1 - NOT FOR FLOOR USE**

**ESHB 2207** - S COMM AMD

By Committee on Ways & Means

**ADOPTED 03/01/2024**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  (1) The legislature finds that, despite a modern waste disposal infrastructure, the occurrences of unlawful solid waste dumping are an increasing problem on open spaces such as privately and publicly owned forestlands. This irresponsible waste dumping, which often includes hazardous materials, asbestos, derelict boats, junk vehicles, appliances, furniture, and household garbage not only creates significant costs for the landowner, but also creates immediate, and sometimes lasting, environmental and habitat damage and degradation of recreational and aesthetic opportunities.

(2) The legislature further finds that the current enforcement system, which relies on the criminalization of illegal dumping, may not be the most effective, efficient, or just penalty system. Converting all but the most egregious illegal dumping from a criminal act to a civil infraction creates a system of deterrence and penalties that better reflects the magnitude of the act, avoids criminal records for individuals who may be unable to afford appropriate waste management options, and reduces the burden on local criminal justice systems and infrastructures.

**Sec.**  RCW 70A.200.060 and 2003 c 337 s 3 are each amended to read as follows:

(1) It is a violation of this section to ((~~abandon~~)):

(a) Abandon a junk vehicle upon any property((~~. In addition, no person shall throw,~~));

(b) Throw, drop, deposit, discard, or otherwise dispose of litter upon any public property in the state or upon private property in this state not owned by him or her or in the waters of this state whether from a vehicle or otherwise including but not limited to any public highway, public park, beach, campground, forestland, recreational area, trailer park, highway, road, street, or alley except:

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

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

(2)(a) Except as provided in subsection ((~~(4)~~)) (5) of this section, it is a class 3 civil infraction as provided in RCW 7.80.120 for a person to litter in an amount less than or equal to one cubic foot.

(b) It is a misdemeanor for a person to litter in an amount greater than one cubic foot but less than ((~~one cubic yard. The person shall also pay a litter cleanup restitution payment equal to twice the actual cost of cleanup, or fifty dollars per cubic foot of litter, whichever is greater. The court shall distribute one-half of the restitution payment to the landowner and one-half~~)) 10 cubic yards. A violation of this subsection may alternatively be punished with a notice of a natural resource infraction under chapter 7.84 RCW.

(c) It is a gross misdemeanor for a person to litter more than 10 cubic yards.

(d)(i) A person found liable or guilty under this section shall, in addition to the penalties provided for misdemeanors, gross misdemeanors, or for natural resource infractions as provided in RCW 7.84.100, also pay a litter clean-up restitution payment equal to four times the actual cost of cleanup for natural resource infractions and misdemeanors and two times the actual cost of cleanup for gross misdemeanors. The court shall distribute an amount of the litter clean-up restitution payment that equals the actual cost of cleanup to the landowner where the littering incident occurred and the remainder of the restitution payment to the law enforcement agency investigating the incident.

(ii) The court may, in addition to or in lieu of part or all of the cleanup restitution payment, order the person to pick up and remove litter from the property, with prior permission of the legal owner or, in the case of public property, of the agency managing the property.

(iii) The court may suspend or modify the litter cleanup restitution payment for a first-time offender under this section, if the person cleans up and properly disposes of the litter.

((~~(c) It is a gross misdemeanor for a person to litter in an amount of one cubic yard or more. The person shall also pay a litter cleanup restitution payment equal to twice the actual cost of cleanup, or one hundred dollars per cubic foot of litter, whichever is greater. The court shall distribute one-half of the restitution payment to the landowner and one-half of the restitution payment to the law enforcement agency investigating the incident. The court may, in addition to or in lieu of part or all of the cleanup restitution payment, order the person to pick up and remove litter from the property, with prior permission of the legal owner or, in the case of public property, of the agency managing the property. The court may suspend or modify the litter cleanup restitution payment for a first-time offender under this section, if the person cleans up and properly disposes of the litter.~~

~~(d)~~)) (3) If a junk vehicle is abandoned in violation of this section, RCW 46.55.230 governs the vehicle's removal, disposal, and sale, and the penalties that may be imposed against the person who abandoned the vehicle.

((~~(3)~~)) (4) If the violation occurs in a state park, the court shall, in addition to any other penalties assessed, order the person to perform ((~~twenty-four~~)) 24 hours of community restitution in the state park where the violation occurred if the state park has stated an intent to participate as provided in RCW 79A.05.050.

((~~(4)~~)) (5) It is a class 1 civil infraction as provided in RCW 7.80.120 for a person to discard, in violation of this section, potentially dangerous litter in any amount.

**Sec.**  RCW 7.84.100 and 2020 c 268 s 1 are each amended to read as follows:

(1) A person found to have committed an infraction shall be assessed a monetary penalty. No penalty may exceed ((~~five hundred dollars~~)) $500 for each offense unless specifically authorized by statute.

(2) The supreme court may prescribe by rule a schedule of monetary penalties for designated infractions. The legislature requests the supreme court to adjust this schedule every two years for inflation. ((~~The~~)) Except as otherwise provided, the maximum penalty imposed by the schedule shall be ((~~five hundred dollars~~)) $500 per infraction and the minimum penalty imposed by the schedule shall be ((~~ten dollars~~)) $10 per infraction. This schedule may be periodically reviewed by the legislature and is subject to its revision.

(3) Penalties for violations of RCW 70A.200.060 that are natural resource infractions are as follows:

(a) Up to $250 for a person found liable of littering between one cubic foot and one cubic yard of material;

(b) Up to $750 for a person found liable of littering more than one cubic yard and less than seven cubic yards of material;

(c) Up to $1,000 for a person found liable of littering between seven and 10 cubic yards of material.

(4) Whenever a monetary penalty is imposed by a court under this chapter, it is immediately payable. If the person is unable to pay at that time, the court may, in its discretion, grant an extension of the period in which the penalty may be paid.

((~~(4)~~)) (5)(a) The county treasurer shall remit ((~~seventy-five~~)) 75 percent of the money received under RCW 79A.80.080(5) to the state treasurer.

(b) Money remitted under this subsection to the state treasurer must be deposited in the recreation access pass account established under RCW 79A.80.090. The balance of the noninterest money received by the county treasurer must be deposited in the county current expense fund.

**Sec.**  RCW 7.84.140 and 2011 c 320 s 13 are each amended to read as follows:

(1) The director chosen by the state parks and recreation commission, the commissioner of public lands, and the director of the department of fish and wildlife are each authorized to delegate and accept enforcement authority over natural resource infractions to or from the other agencies through an agreement entered into under the interlocal cooperation act, chapter 39.34 RCW.

(2) Any person specified in RCW 70A.200.050 may initiate enforcement of RCW 70A.200.060 for those infractions that are natural resource infractions under this chapter, with or without an interlocal agreement under this section.

**Sec.**  RCW 7.84.020 and 2012 c 176 s 2 are each amended to read as follows:

The definition in this section applies throughout this chapter unless the context clearly requires otherwise.

"Infraction" means an offense which, by the terms of Title 76, 77, 79, or 79A RCW or RCW 7.84.030(2)(b) or 70A.200.060, and rules adopted under these titles and sections, is declared not to be a criminal offense or a civil infraction and is subject to the provisions of this chapter."

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On page 1, line 2 of the title, after "dumping;" strike the remainder of the title and insert "amending RCW 70A.200.060, 7.84.100, 7.84.140, and 7.84.020; creating a new section; and prescribing penalties."

EFFECT: (1) Reclassifies litter in an amount greater than one cubic foot but less than 10 cubic yards as a misdemeanor but allows for alternative punishment with notice of a natural resource infraction.

(2) Reduces the litter cleanup restitution payment for gross misdemeanors from four times the actual cost of cleanup to two times the actual cost of cleanup.

(3) Modifies the distribution of litter clean-up restitution payments, distributing a portion to the landowner equal to the cost of cleanup and the remainder to the law enforcement agency investigating the incident.

(4) Removes language amending the waste reduction, recycling, and litter control account, eliminating the creation of new grants for funding programs to reduce illegal dumping.

(5) Removes language amending the model toxics control operating account, eliminating the extension of the public participation grant program to efforts to reduce illegal dumping of hazardous materials or petroleum-containing products.

(6) Removes the language authorizing general peace officers to take actions to enforce the unlawful dumping statute, including detentions for a reasonable time and investigations.