

HOUSE BILL REPORT

SB 5884

As Passed House:
February 27, 2024

Title: An act relating to court-ordered restitution in environmental criminal cases.

Brief Description: Concerning court-ordered restitution in environmental criminal cases.

Sponsors: Senators Trudeau, Pedersen, Dhingra, Hasegawa, Lovelett, Nobles, Saldaña, Salomon, Stanford and Valdez.

Brief History:

Committee Activity:

Environment & Energy: 2/14/24, 2/15/24 [DP].

Floor Activity:

Passed House: 2/27/24, 58-36.

Brief Summary of Bill

- Authorizes the imposition of court-ordered restitution for violations of environmental criminal statutes.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: Do pass. Signed by 9 members: Representatives Doglio, Chair; Mena, Vice Chair; Berry, Duerr, Fey, Lekanoff, Ramel, Slatter and Street.

Minority Report: Do not pass. Signed by 6 members: Representatives Dye, Ranking Minority Member; Ybarra, Assistant Ranking Minority Member; Abbarno, Barnard, Goehner and Sandlin.

Staff: Robert Hatfield (786-7117).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Environmental Criminal Statutes.

Washington law criminalizes certain conduct which is known to cause harm to the environment. Separate statutes across different chapters impose criminal penalties for violations relating to: (1) water pollution; (2) air pollution; and (3) hazardous waste management. These statutes expressly authorize penalties such as fines or imprisonment. There is no language within these statutes expressly authorizing court-ordered restitution for harm suffered by victims of environmental crime.

Hazardous Waste Management—Criminal Penalties.

Any person who knowingly transports, treats, stores, handles, disposes of, or exports a hazardous substance in violation of Washington's law concerning hazardous waste management is guilty of:

- a class B felony if the person knows at the time that the conduct constituting the violation places another person in imminent danger of death or serious bodily injury; or
- a class C felony if the person knows that the conduct constituting the violation places any property of another person or any natural resources owned by the State of Washington or any of its local governments in imminent danger of harm.

Clean Air Act—Criminal Penalties.

Criminal penalties exist for several different violations of the Clean Air Act, including for:

- Any person who knowingly violates any of the provisions of Washington's Clean Air Act or several related statutes is guilty of a gross misdemeanor. The related statutes include Washington's motor vehicle emission control law, Washington's hydrofluorocarbon reduction law, and Washington's clean fuels program law.
- Any person who negligently releases into the ambient air any substance listed by the Department of Ecology (Ecology) as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm is guilty of a gross misdemeanor.
- Any person who knowingly releases into the ambient air any substance listed by Ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, is guilty of a class C felony.

Water Pollution—Criminal Penalties.

Any person found guilty of willfully violating any of the provisions of Washington's Water Pollution Control Act or the Oil and Hazardous Substance Spill Prevention and Response Act is guilty of a gross misdemeanor.

Classification of Crimes and Fines.

Crimes are classified as misdemeanors, gross misdemeanors, or felonies. The classification of a crime generally determines the maximum term of confinement (prison or jail) and/or fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

<u>Classification</u>	<u>Maximum Confinement</u>	<u>Maximum Fine</u>
Misdemeanor	90 days	\$1,000
Gross Misdemeanor	364 days	\$5,000
Class C Felony	5 years	\$10,000
Class B Felony	10 years	\$20,000
Class A Felony	Life	\$50,000

Restitution.

Restitution is a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. Restitution may be used to compensate victims or cover certain public costs for monetary harm arising out of a criminal offense.

Summary of Bill:

The courts are authorized to order restitution for harm to natural resources or the environment, following a criminal conviction with respect to: (1) water pollution; (2) air pollution; and (3) hazardous waste management.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Restitution is the opportunity after a criminal conviction to look at the holistic harms a crime may have caused. If a person is convicted of certain environmental crimes, the bill would provide authorization for a judge to order restitution.

This bill would clarify courts' existing authority to require restitution in environmental crimes. There is general authority to order restitution in criminal cases, but it can

sometimes be confusing in environmental cases, because there is not always an identifiable victim in environmental crimes. The bill would authorize courts to order restitution for quantifiable harm to the environment or natural resources.

(Opposed) None.

Persons Testifying: Senator Yasmin Trudeau, prime sponsor; and Bill Sherman, Washington Attorney General's Office.

Persons Signed In To Testify But Not Testifying: None.