
SUBSTITUTE HOUSE BILL 1205

State of Washington 59th Legislature 2005 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives O'Brien, Appleton and Chase)

READ FIRST TIME 02/11/05.

1 AN ACT Relating to decriminalizing "fine-only" misdemeanors;
2 amending RCW 7.48.250, 19.76.110, 19.84.040, 24.03.420, 24.03.425,
3 24.06.465, 24.06.470, 26.04.110, 26.04.240, 28A.535.070, 35.33.170,
4 35.34.280, 35A.33.160, 35A.34.280, 36.40.240, 48.36A.360, 49.12.130,
5 66.20.340, 70.54.030, 70.90.205, 70.95B.140, 70.119.130, 72.40.100,
6 73.04.020, 78.04.050, 81.44.105, 84.08.050, 88.02.110, and 90.36.050;
7 repealing RCW 19.32.180; and prescribing penalties.

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

9 **Sec. 1.** RCW 7.48.250 and 1987 c 202 s 136 are each amended to read
10 as follows:

11 Whoever is (~~convicted~~) found to have committed the civil
12 infraction of erecting, causing, or contriving a public or common
13 nuisance as described in this chapter, or at common law, when the same
14 has not been modified or repealed by statute, where no other punishment
15 therefor is specially provided, shall be punished by a (~~fine~~)
16 monetary penalty not exceeding one thousand dollars(~~7~~) and the court,
17 with or without such (~~fine~~) monetary penalty, may order such nuisance
18 to be abated, and issue a warrant as hereinafter provided: PROVIDED,

1 That orders and warrants of abatement shall not be issued by district
2 judges.

3 **Sec. 2.** RCW 19.76.110 and 2003 c 53 s 148 are each amended to read
4 as follows:

5 ~~((It is hereby declared to be unlawful for))~~ Any person or persons
6 ~~((hereafter))~~ who, without the written consent of the owner or owners
7 thereof, ~~((to))~~ fills with ale, porter, lager beer or soda, mineral
8 water or other beverages, for sale or to be furnished to customers, any
9 such casks, barrels, kegs, bottles or boxes so marked or stamped, or
10 ~~((to))~~ sells, disposes of, buys or traffics in, or wantonly destroys
11 any such cask, barrel, keg, bottle or box so marked, stamped, by the
12 owner or owners thereof, after such owner or owners ~~((shall))~~ have
13 complied with the provisions of RCW 19.76.100 commits a class 1 civil
14 infraction.

15 **Sec. 3.** RCW 19.84.040 and 1907 c 253 s 4 are each amended to read
16 as follows:

17 Any person, firm, or corporation who ~~((shall))~~ violates any of the
18 provisions of this chapter ~~((shall be deemed guilty of a misdemeanor,~~
19 ~~and shall be fined not less than one hundred dollars nor more than one~~
20 ~~thousand dollars for each offense))~~ commits a class 1 civil infraction.

21 **Sec. 4.** RCW 24.03.420 and 1969 ex.s. c 163 s 7 are each amended to
22 read as follows:

23 Each corporation, domestic or foreign, that fails or refuses to
24 answer truthfully and fully within the time prescribed by this chapter
25 interrogatories propounded by the secretary of state in accordance with
26 the provisions of this chapter ~~((, shall be deemed to be guilty of a~~
27 ~~misdemeanor and upon conviction thereof may be fined in any amount not~~
28 ~~exceeding five hundred dollars))~~ commits a class 1 civil infraction.

29 **Sec. 5.** RCW 24.03.425 and 2004 c 265 s 34 are each amended to read
30 as follows:

31 Each director and officer of a corporation, domestic or foreign,
32 who fails or refuses within the time prescribed by this chapter to
33 answer truthfully and fully interrogatories propounded to him or her by
34 the secretary of state in accordance with the provisions of this

1 chapter, or who signs any articles, statement, report, application or
2 other record filed with the secretary of state which is known to such
3 officer or director to be false in any material respect, (~~shall be~~
4 ~~deemed to be guilty of a misdemeanor, and upon conviction thereof may~~
5 ~~be fined in any amount not exceeding five hundred dollars~~) commits a
6 class 1 civil infraction.

7 **Sec. 6.** RCW 24.06.465 and 2003 c 53 s 165 are each amended to read
8 as follows:

9 (1) Each corporation, domestic or foreign, (~~which~~) that fails or
10 refuses to file its annual report for any year within the time
11 prescribed by this chapter shall be subject to a penalty as established
12 and assessed by the secretary of state.

13 (2) Each corporation, domestic or foreign, (~~which~~) that fails or
14 refuses to answer truthfully and fully within the time prescribed by
15 this chapter any interrogatories propounded by the secretary of state
16 in accordance with the provisions of this chapter(~~, is guilty of a~~
17 ~~misdemeanor and upon conviction thereof shall be fined in an amount not~~
18 ~~to exceed five hundred dollars~~) commits a class 1 civil infraction on
19 each (~~count~~) violation.

20 **Sec. 7.** RCW 24.06.470 and 1969 ex.s. c 120 s 94 are each amended
21 to read as follows:

22 Each director and officer of a corporation, domestic or foreign,
23 who fails or refuses within the time prescribed by this chapter, to
24 answer truthfully and fully any interrogatories propounded to him or
25 her by the secretary of state in accordance with the provisions of this
26 chapter, or who signs any articles, statement, report, application, or
27 other document filed with the secretary of state, which is known to
28 such officer or director to be false in any material respect, (~~shall~~
29 ~~be deemed to be guilty of a misdemeanor, and upon conviction thereof~~
30 ~~shall be fined in an amount not to exceed five hundred dollars~~)
31 commits a class 1 civil infraction on each (~~count~~) violation.

32 **Sec. 8.** RCW 26.04.110 and 1967 c 26 s 6 are each amended to read
33 as follows:

34 Any person solemnizing a marriage, who shall willfully refuse or
35 neglect to make and deliver to the county auditor for record, the

1 certificates mentioned in RCW 26.04.090, within the time in such
2 section specified, (~~shall be deemed guilty of a misdemeanor, and upon~~
3 ~~conviction shall pay for such refusal, or neglect, a fine of not less~~
4 ~~than twenty five nor more than three hundred dollars~~) commits a class
5 1 civil infraction.

6 **Sec. 9.** RCW 26.04.240 and Code 1881 s 2395 are each amended to
7 read as follows:

8 Any person who (~~shall~~) undertakes to join others in marriage
9 knowing that he or she is not lawfully authorized so to do, or any
10 person authorized to solemnize marriage, who shall join persons in
11 marriage contrary to the provisions of this chapter (chapter 26.04
12 RCW), (~~shall, upon conviction thereof, be punished by a fine of not~~
13 ~~more than five hundred, nor less than one hundred dollars~~) commits a
14 class 1 civil infraction.

15 **Sec. 10.** RCW 28A.535.070 and 1985 c 7 s 90 are each amended to
16 read as follows:

17 When authorized to issue bonds, as provided in this chapter the
18 board of directors shall immediately cause to be sent to the
19 appropriate county treasurer, notice thereof. The county officials
20 charged by law with the duty of levying taxes for the payment of said
21 bonds and interest shall do so as provided in RCW 39.46.110.

22 The annual expense of such district shall not thereafter exceed the
23 annual revenue thereof, and any officer of such district who (~~shall~~)
24 knowingly aids in increasing the annual expenditure in excess of the
25 annual revenue of such district, in addition to any other penalties,
26 whether civil or criminal, as provided by law, (~~shall be deemed to be~~
27 ~~guilty of a misdemeanor, and shall be punished by a fine not exceeding~~
28 ~~five hundred dollars~~) commits a class 1 civil infraction.

29 **Sec. 11.** RCW 35.33.170 and 1969 ex.s. c 95 s 25 are each amended
30 to read as follows:

31 (~~Upon the conviction of~~) Any city or town official, department
32 head, or other city or town employee (~~of~~) who knowingly (~~failing~~)
33 fails, or (~~refusing~~) refuses, without just cause, to perform any duty
34 imposed upon such officer or employee by this chapter, or city charter
35 or city or town ordinance, in connection with the giving of notice, the

1 preparing and filing of estimates of revenues or expenditures or other
2 information required for preparing a budget report in the time and
3 manner required, or of knowingly making expenditures in excess of
4 budget appropriations, (~~he shall be guilty of a misdemeanor and shall~~
5 ~~be fined not more than five hundred dollars~~) commits a class 1 civil
6 infraction for each separate violation.

7 **Sec. 12.** RCW 35.34.280 and 1985 c 175 s 31 are each amended to
8 read as follows:

9 (~~Upon the conviction of~~) Any city or town official, department
10 head, or other city or town employee (~~of~~) who knowingly (~~failing,~~)
11 fails or (~~refusing~~) refuses, without just cause, to perform any duty
12 imposed upon such officer or employee by this chapter, or city charter
13 or city or town ordinance, in connection with the giving of notice, the
14 preparing and filing of estimates of revenues or expenditures or other
15 information required for preparing a budget report in the time and
16 manner required, or of knowingly making expenditures in excess of
17 budget appropriations, (~~the official or employee shall be guilty of a~~
18 ~~misdemeanor and shall be fined not more than five hundred dollars~~)
19 commits a class 1 civil infraction for each separate violation.

20 **Sec. 13.** RCW 35A.33.160 and 1967 ex.s. c 119 s 35A.33.160 are each
21 amended to read as follows:

22 (~~Upon the conviction of~~) Any city official, department head, or
23 other city employee (~~of~~) who knowingly (~~failing,~~) fails or
24 (~~refusing~~) refuses, without just cause, to perform any duty imposed
25 upon such officer or employee by this chapter, or city ordinance or
26 charter, in connection with the giving of notice, the preparing and
27 filing of estimates of revenues or expenditures or other information
28 required for preparing a budget report in the time and manner required,
29 or of knowingly making expenditures in excess of budget appropriations,
30 (~~he shall be guilty of a misdemeanor and shall be fined not more than~~
31 ~~five hundred dollars~~) commits a class 1 civil infraction for each
32 separate violation.

33 **Sec. 14.** RCW 35A.34.280 and 1985 c 175 s 60 are each amended to
34 read as follows:

35 (~~Upon the conviction of~~) Any city official, department head, or

1 other city employee (~~of~~) who knowingly (~~failing,~~) fails or
2 (~~refusing~~) refuses, without just cause, to perform any duty imposed
3 upon such officer or employee by this chapter, or city charter or city
4 ordinance, in connection with the giving of notice, the preparing and
5 filing of estimates of revenues or expenditures or other information
6 required for preparing a budget report in the time and manner required,
7 or of knowingly making expenditures in excess of budget appropriations,
8 (~~the official or employee shall be guilty of a misdemeanor and shall~~
9 ~~be fined not more than five hundred dollars~~) commits a class 1 civil
10 infraction for each separate violation.

11 **Sec. 15.** RCW 36.40.240 and 1963 c 4 s 36.40.240 are each amended
12 to read as follows:

13 Any person violating any of the provisions of this chapter (~~shall~~
14 ~~be guilty of a misdemeanor and upon conviction thereof shall be fined~~
15 ~~not less than twenty five dollars nor more than five hundred dollars~~)
16 commits a class 1 civil infraction.

17 **Sec. 16.** RCW 48.36A.360 and 1987 c 366 s 36 are each amended to
18 read as follows:

19 (1) Any person who willfully makes a false or fraudulent statement
20 in or relating to an application for membership or for the purpose of
21 obtaining money from or a benefit in any society, shall upon conviction
22 be fined not less than one hundred dollars nor more than five hundred
23 dollars or imprisonment in the county jail not less than thirty days
24 nor more than one year, or both.

25 (2) Any person who willfully makes a false or fraudulent statement
26 in any verified report or declaration under oath required or authorized
27 by this chapter, or of any material fact or thing contained in a sworn
28 statement concerning the death or disability of an insured for the
29 purpose of procuring payment of a benefit named in the certificate,
30 shall be guilty of false swearing and shall be subject to the penalties
31 under RCW 9A.72.040.

32 (3) Any person who solicits membership for, or in any manner
33 assists in procuring membership in, any society not licensed to do
34 business in this state (~~shall be guilty of a misdemeanor and upon~~
35 ~~conviction be fined not less than fifty dollars nor more than two~~
36 ~~hundred dollars~~) commits a class 2 civil infraction.

1 (4) Any person guilty of a willful violation of, or neglect or
2 refusal to comply with, the provisions of this chapter for which a
3 penalty is not otherwise prescribed(~~(, shall upon conviction, be~~
4 ~~subject to a fine not exceeding two hundred dollars)~~) commits a class
5 2 civil infraction.

6 **Sec. 17.** RCW 49.12.130 and 1913 c 174 s 16 are each amended to
7 read as follows:

8 Any employer who discharges, or in any other manner discriminates
9 against any employee because such employee has testified or is about to
10 testify, or because such employer believes that (~~said~~) the employee
11 may testify in any investigation or proceedings relative to the
12 enforcement of RCW 49.12.010 through 49.12.180, (~~shall be deemed~~
13 ~~guilty of a misdemeanor and upon conviction thereof, shall be punished~~
14 ~~by a fine of from twenty five dollars to one hundred dollars)~~) commits
15 a class 2 civil infraction for each such (~~misdemeanor~~) violation.

16 **Sec. 18.** RCW 66.20.340 and 1995 c 51 s 6 are each amended to read
17 as follows:

18 (1) A violation of any of the rules of the board adopted to
19 implement RCW 66.20.300 through 66.20.350 is (~~a misdemeanor~~) a class
20 1 civil infraction, punishable by a (~~fine~~) monetary penalty of not
21 more than two hundred fifty dollars for a first offense.

22 (2) A subsequent offense is a misdemeanor punishable by a fine of
23 not more than five hundred dollars, or imprisonment for not more than
24 ninety days, or both the fine and imprisonment.

25 **Sec. 19.** RCW 70.54.030 and 1909 c 16 s 2 are each amended to read
26 as follows:

27 Any person who (~~shall~~) places or causes to be placed within any
28 watershed from which any city or municipal corporation of any adjoining
29 state obtains its water supply, any substance which either by itself or
30 in connection with other matter will corrupt, pollute, or impair the
31 quality of (~~said~~) the water supply, or the owner of any dead animal
32 who (~~shall~~) knowingly leaves or causes to be left the carcass or any
33 portion thereof within any such watershed in such condition as to in
34 any way corrupt or pollute such water supply (~~shall be deemed guilty~~

1 ~~of a misdemeanor and upon conviction shall be punished by fine in any~~
2 ~~sum not exceeding five hundred dollars))~~ commits a class 1 civil
3 infraction.

4 **Sec. 20.** RCW 70.90.205 and 1987 c 222 s 11 are each amended to
5 read as follows:

6 The violation of any provisions of this chapter and any rules
7 adopted under this chapter (~~shall be a misdemeanor punishable by a~~
8 ~~fine of not more than five hundred dollars))~~ is a class 1 civil
9 infraction.

10 **Sec. 21.** RCW 70.95B.140 and 1973 c 139 s 14 are each amended to
11 read as follows:

12 Any person, including any firm, corporation, municipal corporation,
13 or other governmental subdivision or agency, violating any provisions
14 of this chapter or the rules and regulations adopted hereunder(~~, is~~
15 ~~guilty of a misdemeanor))~~ commits a class 2 civil infraction. Each day
16 of operation in such violation of this chapter or any rules or
17 regulations adopted hereunder (~~shall~~) constitutes a separate offense.
18 (~~Upon conviction, violators shall be fined an amount not exceeding one~~
19 ~~hundred dollars for each offense.~~) It (~~shall be~~) is the duty of the
20 prosecuting attorney or the attorney general, as appropriate, to secure
21 injunctions of continuing violations of any provisions of this chapter
22 or the rules and regulations adopted hereunder.

23 **Sec. 22.** RCW 70.119.130 and 1991 c 305 s 8 are each amended to
24 read as follows:

25 Any person, including any operator or any firm, association,
26 corporation, municipal corporation, or other governmental subdivision
27 or agency, who, after thirty days' written notice, operates a public
28 water system which is not in compliance with RCW 70.119.030(1)(~~, shall~~
29 ~~be guilty of a misdemeanor))~~ commits a class 2 civil infraction. Each
30 month of such operation out of compliance with RCW 70.119.030(1) shall
31 constitute a separate offense. (~~Upon conviction, violators shall be~~
32 ~~fined an amount not exceeding one hundred dollars for each offense.~~)
33 It (~~shall be~~) is the duty of the prosecuting attorney or the attorney
34 general, as appropriate to secure injunctions of continuing violations
35 of any provisions of this chapter or the rules and regulations adopted

1 hereunder: PROVIDED, That, except in the case of fraud, deceit, or
2 gross negligence under RCW 70.119.110, no revocation, citation, or
3 charge shall be made under RCW 70.119.110 and 70.119.130 until a proper
4 written notice of violation is received and a reasonable opportunity
5 for correction has been given.

6 **Sec. 23.** RCW 72.40.100 and 1987 c 202 s 229 are each amended to
7 read as follows:

8 Any parent, guardian, or educational service district
9 superintendent who, without proper cause, fails to carry into effect
10 the provisions of this chapter (~~((shall be guilty of a misdemeanor, and
11 upon conviction thereof, upon the complaint of any officer or citizen
12 of the county or state, before any district or superior court, shall be
13 fined in any sum not less than fifty nor more than two hundred
14 dollars))~~) commits a class 1 civil infraction.

15 **Sec. 24.** RCW 73.04.020 and 1891 c 14 s 2 are each amended to read
16 as follows:

17 Any such officer who may require and accept fees for such services
18 (~~((shall be deemed guilty of a misdemeanor, and on conviction thereof
19 shall be fined in any sum not less than ten dollars nor more than fifty
20 dollars))~~) commits a class 3 civil infraction.

21 **Sec. 25.** RCW 78.04.050 and 1901 c 120 s 2 are each amended to read
22 as follows:

23 Any violation of any of the provisions of RCW 78.04.040 by any
24 officer or agent of such corporation (~~((shall))~~) constitutes a
25 (~~((misdemeanor, and upon conviction thereof every such officer or agent
26 shall be fined in a sum not greater than two hundred dollars))~~) class 1
27 civil infraction for each offense.

28 **Sec. 26.** RCW 81.44.105 and 1961 c 14 s 81.44.105 are each amended
29 to read as follows:

30 Every violation of RCW 81.44.101 through 81.44.105 is a
31 (~~((misdemeanor and shall be punishable by a fine of not more than one
32 hundred dollars))~~) class 3 civil infraction.

1 **Sec. 27.** RCW 84.08.050 and 2003 c 53 s 407 are each amended to
2 read as follows:

3 (1) The department of revenue shall:

4 (a) Require individuals, partnerships, companies, associations and
5 corporations to furnish information as to their capital, funded debts,
6 investments, value of property, earnings, taxes and all other facts
7 called for on these subjects so that the department may determine the
8 taxable value of any property or any other fact it may consider
9 necessary to carry out any duties now or hereafter imposed upon it, or
10 may ascertain the relative burdens borne by all kinds and classes of
11 property within the state, and for these purposes their records, books,
12 accounts, papers and memoranda shall be subject to production and
13 inspection, investigation and examination by the department, or any
14 employee thereof designated by the department for such purpose, and any
15 or all real and/or personal property in this state shall be subject to
16 visitation, investigation, examination and/or listing at any and all
17 times by the department or by any employee thereof designated by the
18 department.

19 (b) Summon witnesses to appear and testify on the subject of
20 capital, funded debts, investments, value of property, earnings, taxes,
21 and all other facts called for on these subjects, or upon any matter
22 deemed material to the proper assessment of property, or to the
23 investigation of the system of taxation, or the expenditure of public
24 funds for state, county, district and municipal purposes: PROVIDED,
25 HOWEVER, No person shall be required to testify outside of the county
26 in which the taxpayer's residence, office or principal place of
27 business, as the case may be, is located. Such summons shall be served
28 in like manner as a subpoena issued out of the superior court and be
29 served by the sheriff of the proper county, and such service certified
30 by him or her to the department without compensation therefor. Persons
31 appearing before the department in obedience to a summons shall in the
32 discretion of the department receive the same compensation as witnesses
33 in the superior court.

34 (c) Thoroughly investigate all complaints which may be made to it
35 of illegal, unjust or excessive taxation, and shall endeavor to
36 ascertain to what extent and in what manner, if at all, the present
37 system is inequal or oppressive.

1 (2) Any member of the department or any employee thereof designated
2 for that purpose may administer oaths to witnesses.

3 (3)(a) In case any witness shall fail to obey the summons to
4 appear, or refuse to testify, or shall fail or refuse to comply with
5 any of the provisions of subsection (1)(a) or (b) of this section, such
6 person, for each separate or repeated offense, (~~shall be deemed guilty~~
7 ~~of a misdemeanor, and upon conviction thereof shall be fined in any sum~~
8 ~~not less than fifty dollars, nor more than five thousand dollars~~)
9 commits a class 1 civil infraction.

10 (b) Any person who shall testify falsely is guilty of perjury and
11 shall be punished under chapter 9A.72 RCW.

12 **Sec. 28.** RCW 88.02.110 and 1993 c 244 s 4 are each amended to read
13 as follows:

14 (1) Except as otherwise provided in this chapter, a violation of
15 this chapter and the rules adopted by the department pursuant to these
16 statutes is a (~~misdemeanor punishable only by a fine not to exceed one~~
17 ~~hundred dollars~~) class 3 civil infraction per vessel for the first
18 violation. Subsequent violations in the same year are subject to the
19 following (~~finest~~):

20 (a) (~~For the~~) A second violation(~~, a fine of two hundred~~
21 ~~dollars~~) is a class 2 civil infraction per vessel;

22 (b) (~~For the~~) A third (~~and~~) or successive violation(~~s, a fine~~
23 ~~of four hundred dollars~~) is a class 1 civil infraction per vessel.

24 (2) After subtraction of court costs and administrative collection
25 fees, moneys collected under this section shall be credited to the
26 current expense fund of the (~~arresting~~) adjudicating jurisdiction.

27 (3) All law enforcement officers shall have the authority to
28 enforce this chapter, and the rules adopted by the department pursuant
29 to these statutes within their respective jurisdictions: PROVIDED,
30 That a city, town, or county may contract with a fire protection
31 district for such enforcement and fire protection districts are
32 authorized to engage in such activities.

33 **Sec. 29.** RCW 90.36.050 and 1901 c 121 s 3 are each amended to read
34 as follows:

35 Any person whether as owner, lessee, agent, or manager having
36 possession or control of any such well, violating the provisions of

1 (~~this act shall be deemed guilty of a misdemeanor and upon conviction~~
2 ~~thereof, shall be fined in any sum not exceeding two hundred dollars~~)
3 RCW 90.36.020 through 90.36.040 commits a class 1 civil infraction for
4 each and every such ~~((offense))~~ violation, and ~~((the further sum of two~~
5 ~~hundred dollars for))~~ each ten days during which such violation
6 ~~((shall))~~ continues shall be considered a separate violation.

7 NEW SECTION. Sec. 30. RCW 19.32.180 (Violations--Penalty) and
8 1943 c 117 s 11 are each repealed.

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