

HOUSE BILL REPORT

HB 2207

As Reported by House Committee On:

Environment & Energy
Appropriations

Title: An act relating to providing tools designed to reduce the impacts of unlawful solid waste dumping.

Brief Description: Providing tools designed to reduce the impacts of unlawful solid waste dumping.

Sponsors: Representatives Ramos, Low, Chapman, Couture and Reed.

Brief History:

Committee Activity:

Environment & Energy: 1/18/24, 1/30/24 [DPS];
Appropriations: 2/3/24, 2/5/24 [DPS(ENVI)].

Brief Summary of Substitute Bill

- Reclassifies certain unlawful waste dumping violations as natural resource infractions rather than misdemeanor offenses.
- Empowers the same personnel that enforce civil littering infractions and littering crimes to enforce natural resource littering infractions.
- Reallocates half of the revenues from litter cleanup restitution payments to be used for waste disposal campaigns, especially those designed to reduce illegal dumping.
- Creates a pilot project at the Department of Natural Resources to remove abandoned vessels in areas other than those above aquatic lands.
- Provides for the use of Model Toxics Control Operating Account funds on public participation grants that focus on reducing dumping for the 2025 to 2027 and 2027 to 2029 fiscal biennia.

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.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Doglio, Chair; Mena, Vice Chair; Abbarno, Berry, Duerr, Fey, Lekanoff, Ramel, Slatter and Street.

Minority Report: Do not pass. Signed by 5 members: Representatives Dye, Ranking Minority Member; Ybarra, Assistant Ranking Minority Member; Barnard, Goehner and Sandlin.

Staff: Zachary Blinkinsop (786-7296) and Jacob Lipson (786-7196).

Background:

Unlawful Waste Dumping.

It is unlawful to abandon a junk vehicle or to dispose of litter on any public property, public waters, or the private property of any other person.

Penalties for the unlawful dumping of waste (littering) are assessed on a sliding scale depending on the amount of waste:

- It is a class 1 civil infraction to litter any potentially dangerous material in any amount; the maximum penalty and the default amount of a class 1 civil infraction involving potentially dangerous litter is \$500.
- It is a class 3 civil infraction to litter in an amount less than or equal to 1 cubic foot; the maximum penalty and the default amount of a class 3 civil infraction, not including statutory assessments, is \$50.
- It is a misdemeanor to litter in an amount greater than 1 cubic foot but less than 1 cubic yard; a misdemeanor fine may not exceed \$1,000 for individuals or \$50,000 for entities.
- It is a gross misdemeanor to litter in an amount equal to or greater than 1 cubic yard; a gross misdemeanor fine may not exceed \$5,000 for individuals or \$250,000 for entities.

A person found guilty of misdemeanor littering must pay a litter cleanup restitution payment equal to twice the actual cost of cleanup or \$50 per cubic foot of litter, whichever is greater. A person found guilty of gross misdemeanor littering must pay a litter cleanup restitution payment equal to twice the actual cost of cleanup or \$100 per cubic foot of litter, whichever is greater.

The court distributes one-half of a restitution payment to the landowner of the property where the waste was littered and one-half of the restitution payment to the law enforcement agency investigating the incident.

Natural Resource Infractions.

Certain offenses involving forests and forest products, fish and wildlife, public lands, and public recreational lands, are classified as natural resource infractions. A natural resource infraction is not a criminal offense. A person found to have committed a natural resource infraction shall be assessed a monetary penalty. This penalty must be at least \$10, and it cannot exceed \$500 unless specifically authorized by statute.

Derelict Vessel Removal Program.

The Derelict Vessel Removal Program (DVRP) is administered by the Department of Natural Resources (DNR). Under the DVRP, certain public entities, including the DNR, may take custody and dispose of abandoned or derelict vessels on or above aquatic lands within their jurisdiction.

To be considered derelict, a vessel must have an owner who exerts control over the vessel, and it has been impermissibly left on public waters or public property, impermissibly left on private property, or left for seven consecutive days and is in danger of sinking, obstructing a waterway, or endangering life or property.

Waste Reduction, Recycling, and Litter Control Account.

A litter tax is imposed on every manufacturer, wholesaler, and retailer doing business in the state. This tax is remitted into the Waste Reduction, Recycling, and Litter Control Account (Litter Control Account) and the Litter Control Account is administered by the Department of Ecology. The tax only applies to the value or the gross proceeds from the sale of products like food, groceries, cigarettes, containers, and toiletries. The receipts from the litter tax are primarily used for litter collection, waste reduction, recycling, and composting programs.

Model Toxics Control Operating Account.

Revenue from the pollution tax on hazardous substances and petroleum products is allocated to multiple accounts, including 60 percent of collections to the Model Toxics Control Operating Account (MTCA Operating Account). The MTCA Operating Account is used for hazardous waste planning and management, public education about hazardous waste, financial assistance for local waste programs, oil and hazardous spill prevention and training, and other similar uses. One percent of the pollution tax moneys deposited into the MTCA Operating Account is allocated for public participation grants to persons who may be adversely affected by hazardous substances and not-for-profit public organizations. The primary purpose of these grants is to facilitate participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances. The grants may not exceed \$60,000. The grants may be renewed annually.

Summary of Substitute Bill:

Unlawful Waste Dumping.

It is a class 3 civil infraction to litter in an amount less than or equal to 1 cubic foot and is thus subject to a maximum default infraction penalty of \$50.

It is a natural resource infraction to litter in an amount more than 1 cubic foot and less than 10 cubic yards. Penalties for these littering violations are:

- up to \$250 for littering between 1 cubic foot and 1 cubic yard of material;
- up to \$750 for littering between 1 and 7 cubic yards of material; and
- up to \$1,000 for littering between 7 and 10 cubic yards of material.

The litter cleanup restitution payment is assessed at four times the actual cost of cleanup. The court distributes one-half of a litter cleanup restitution payment to the Waste Reduction, Recycling, and Litter Control Account (Litter Control Account) and one-half to the law enforcement agency investigating the incident.

All fines and bail forfeitures collected for littering violations are to be deposited into the Litter Control Account except as otherwise provided by statute.

Law enforcement officers who are authorized to enforce littering civil infractions and littering crimes are empowered to enforce the newly established natural resource infractions for littering.

Derelict Vessels.

Until June 30, 2029, the Department of Natural Resources (DNR) shall operate a pilot project focused on removing vessels that are illegally dumped and found derelict in areas other than above aquatic lands. The DNR's derelict vessel program authority is temporarily expanded to encompass terrestrial lands, for purposes of the pilot project. By January 1, 2028, the DNR shall report to the Legislature the number of vessels that will have been removed under the pilot project, limitations in the pilot project, and recommendations as whether to continue, expand, or modify the pilot project. The terrestrial derelict vessel removal pilot project is the lowest priority of the Derelict Vessel Removal Account absent specific legislative appropriations otherwise.

Waste Reduction, Recycling, and Litter Control Account.

One hundred percent of the receipts from the litter cleanup restitution payments into the Litter Control Account is reserved for the Department of Ecology to award grants to local governments or nonprofit organizations for the purpose of reducing illegal dumping on public or private forestlands or other spaces. Qualifying projects must have project descriptions at reducing outdoor dumping or reducing the cost of legal waste disposal, such

as education campaigns, free or reduced-cost collection days, income-based waste disposal coupons or vouchers, and other measures reasonably targeted at reducing illegal dumping.

Public Participation Grants.

For the 2025 to 2027 and 2027 to 2029 fiscal biennia only, an additional 0.25 percent of the moneys collected in the Model Toxics Control Operating Account must be used for public participation grants that focus on public education efforts targeted at reducing illegal dumping of hazardous materials or petroleum-containing products on public and private land.

Substitute Bill Compared to Original Bill:

The substitute bill:

- reinstates a volume measure as an element of littering violations, instead of changing to a weight measure, and reinstates volume-based penalties instead of weight-based littering penalties;
- specifies natural resource infraction littering penalties of: up to \$250 for between 1 cubic foot and 1 cubic yard of material, up to \$750 for between 1 and 7 cubic yards of material, and up to \$1,000 for between 7 and 10 cubic yards of material;
- recriminalizes dumping more than 10 square yards of waste as a gross misdemeanor;
- clarifies that all fines and bail forfeitures collected for littering violations are to be deposited into the Waste Reduction, Recycling, and Litter Control Account except as otherwise provided by statute;
- broadens the new, temporary, illegal dumping-focused Model Toxics Control Operating Account public participation grants beyond targeting just rural, forested communities;
- makes the terrestrial derelict vessel removal pilot project the lowest priority of the Derelict Vessel Removal Account absent specific legislative appropriations;
- empowers the same personnel, including state patrol officers, fish and wildlife officers, and police officers, who are eligible to enforce littering violations that are civil infractions and misdemeanors to also enforce the littering violations that are newly made natural resource infractions; and
- makes technical changes such as conforming amendments.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Landowners spend a lot of money disposing of garbage that has been unlawfully dumped on their lands. Cleanup can cost as much as \$100,000. Recently there has been an increase in unlawful dumping, including dumping of appliances and automobiles. Rural areas are particularly hard hit because they are easy targets. Legal waste disposal can be expensive. It is often cheaper to pay a fine for unlawful dumping than it is to pay for disposal. This bill strikes a good balance between increased deterrence and additional resources for solid waste disposal. It lines up the measure of the penalty with the way that waste disposal is determined: by weight. Further improvements could include assistance to landowners to dispose of hazardous waste dumped on their properties.

(Opposed) None.

(Other) Unlawful dumping is best addressed by making disposal costs more affordable. A funding source based on penalties is unreliable. The new grant program would require a lot of effort and energy and deserves more money. Regular law enforcement officers might not be able to enforce natural resource infractions like they can enforce civil infractions and crimes, thereby reducing the effectiveness of deterrence. Unlawful dumping is already not a high priority for law enforcement.

Persons Testifying: (In support) Representative Bill Ramos, prime sponsor; Tom Davis, Washington Forest Protection Association; Holli Johnson, Rayonier; and Jason Callahan, Green Diamond Resource Company.

(Other) Peter Lyon, Department of Ecology; James McMahan, Washington Association of Sheriffs and Police Chiefs; Brian Considine, Department of Natural Resources; and Travis Dutton, Washington State Association of Counties.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Environment & Energy be substituted therefor and the substitute bill do pass. Signed by 30 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg, Callan, Chopp, Davis, Dye, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Stokesbary, Stonier, Tharinger and Wilcox.

Staff: Dan Jones (786-7118).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Environment & Energy:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Unlawful dumping is a growing problem in forest lands, including cars, boats, and tires. Hauling away illegally dumped objects is costly for landowners. This bill would help decrease garbage and put it where it belongs. Decriminalizing unlawful dumping would help improve enforcement opportunities, as happened with a similar policy impacting the Department of Fish and Wildlife. There is no one magic fix to unlawful dumping, and the bill presents a suite of options to offer relief. The derelict vessels policy in the bill would help in situations where the state doesn't currently have authority to take title and remove a vessel unless it is in water.

(Opposed) None.

Persons Testifying: Tom Davis; and Jason Callahan, Green Diamond Resource Company.

Persons Signed In To Testify But Not Testifying: None.