

SENATE BILL REPORT

ESHB 2207

As of February 24, 2024

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: House Committee on Environment & Energy (originally sponsored by Representatives Ramos, Low, Chapman, Couture and Reed).

Brief History: Passed House: 2/12/24, 97-0.

Committee Activity: Environment, Energy & Technology: 2/20/24, 2/21/24 [DP-WM].
Ways & Means: 2/24/24.

Brief Summary of 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.
- Provides for the use of Model Toxics Control Operating Account funds on public participation grants that focus on combatting illegal dumping of hazardous materials and petroleum-containing products.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: Do pass and be referred to Committee on Ways & Means.

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.

Signed by Senators Nguyen, Chair; Lovelett, Vice Chair; MacEwen, Ranking Member; Boehnke, Lovick, Short, Trudeau and Wellman.

Staff: Adam Brunmeier (786-7357)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jed Herman (786-7346)

Background: Unlawful Waste Dumping. It is unlawful to abandon junk vehicles or dispose of litter on public property, public waters, or the private property of another person.

Penalties for unlawful waste dumping 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;
- it is a class 3 civil infraction to litter in an amount less than or equal to one cubic foot;
- it is a misdemeanor to litter in an amount greater than 1 cubic foot but less than one cubic yard; and
- it is a gross misdemeanor to litter in an amount equal to or greater than one cubic yard.

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.

Waste Reduction, Recycling, and Litter Control Account. The Litter Control Account is primarily administered by the Department of Ecology. Funds in the account are used for litter collection, waste reduction, recycling, and composting programs. The account is funded primarily by the litter tax imposed on manufacturers doing business in Washington State.

Model Toxics Control Operating Account. The Model Toxics Control Operating Account (MTCA) 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 is allocated for public participation grants to persons who may be adversely affected by hazardous substances and not-for-profit public organizations.

Summary of Bill: Unlawful Waste Dumping. Litter in an amount more than one cubic foot and less than ten cubic yards is reduced from a misdemeanor to a natural resource infraction. Penalties for these littering violations are:

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

In addition to penalties provided for natural resource infractions or restitution provided for gross misdemeanors, violators must pay a litter cleanup restitution payment. 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. General peace officers who are authorized to take actions, including detentions, specified for natural resource infraction enforcement may take those same actions with respect to the enforcement of littering provisions.

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. The Legislature may appropriate additional money to the Model Toxics Control Operating Account for the use of public participation grants. Eligible public participation grants may focus on public education efforts targeted at reducing illegal dumping of hazardous materials or petroleum-containing products on public and private land.

Appropriation: None.

Fiscal Note: Requested on February 12, 2024.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Environment, Energy & Technology): PRO: Unlawful dumping is a growing problem in public and private forest lands that imposes high costs on landowners. Law enforcement is reluctant to enforce litter and dumping laws so a new approach to enforcement and a new deterrent are required. Fish and Wildlife saw better enforcement outcomes by decriminalizing and switching to natural resource infractions. Increased enforcement and increased deterrence means more funding and the new law will help redirect that funding into programs aimed at reducing unlawful dumping.

OTHER: The penalties will be insufficient to support the programs. The number of penalties issued is currently very low. Penalties will be inconsistent. The evidentiary burden to issue penalties has been historically very difficult to meet which is why penalties are so rare.

Persons Testifying (Environment, Energy & Technology): PRO: Tom Davis, Washington Forest Protection Association; Jason Callahan, Green Diamond Resource Company.

OTHER: Peter Lyon, Washington State Department of Ecology.

Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: We have a dirty little secret, people are dumping all kinds of things in the forest and it is costing us \$50,000 to \$100,000 per year to clean it up. We need a different method from what is currently in statute for enforcement. We have some restructuring ideas that we think will help with enforcement actions.

Persons Testifying (Ways & Means): PRO: Tom Davis, Washington Forest Protection Association; Jason Callahan, Green Diamond Resource Company.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.