

HOUSE BILL REPORT

ESHB 2207

As Passed House:

March 5, 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:

Committee Activity:

Environment & Energy: 1/18/24, 1/30/24 [DPS];

Appropriations: 2/3/24, 2/5/24 [DPS(ENVI)].

Floor Activity:

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

Senate Amended.

Passed Senate: 3/1/24, 49-0.

House Concurred.

Passed House: 3/5/24, 93-0.

Brief Summary of Engrossed Substitute Bill

- Revises, for unlawful waste dumping, the measurement criteria for violations, the costs of penalties, and the assessment and distribution of restitution payments.
- Allows misdemeanor littering violations to be punished as natural resource infractions.
- Authorizes the enforcement of littering natural resource infractions by designated authorities.

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).

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).

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.

Summary of Engrossed Substitute Bill:

It is a misdemeanor to litter in an amount greater than 1 cubic foot and less than 10 cubic yards. A misdemeanor violation for littering may alternatively be punished with a notice of a natural resource infraction. Penalties for these littering natural resource infractions are:

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

It is a gross misdemeanor to litter more than 10 cubic yards of material.

A person found liable for or guilty of a littering natural resource infraction, misdemeanor, or gross misdemeanor must pay a litter cleanup restitution payment. The litter cleanup restitution payment is assessed at 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 distributes to the landowner where the littering incident occurred an amount of the litter cleanup restitution payment that equals the actual cost of cleanup. The court distributes the remainder of the litter cleanup restitution payment to the law enforcement agency investigating the incident.

State patrol officers, fish and wildlife officers, fire wardens, deputy fire wardens, forest rangers, sheriffs and marshals and their deputies, police officers, and those employees of the Department of Ecology and the Parks and Recreation Commission vested with police

powers may initiate enforcement for littering natural resource infractions. Such persons may initiate enforcement with or without an interlocal agreement.

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 (Environment & Energy):

(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.

Staff Summary of Public Testimony (Appropriations):

(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 (Environment & Energy): (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 Testifying (Appropriations): Tom Davis; and Jason Callahan, Green Diamond Resource Company.

Persons Signed In To Testify But Not Testifying (Environment & Energy): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.