

will bear its proportionate share of attorney's fees and costs where an injured party has obtained his own attorney and has recovered from the third party. Court approval of such attorney's fees is required by the act, with the proviso that if the attorney's fees conform to the applicable minimum bar fee schedule, court approval is not necessary.

Veto
Message

The Department of Labor and Industries has had similar legislation for some time which has provided for that department bearing its proportionate share of attorney's fees and costs, provided that there is court approval. There has been no exemption from court approval even where there was conformity to the applicable minimum bar fee schedule. Without that exemption the act has proven quite workable, to the public, the bar and the department. There would not appear to be any reason to deviate from the already successful statutory formula which has applied to the Department of Labor and Industries.

It would appear the present law relating to the Department of Social and Health Services should, in the absence of substantial reason for difference, be consistent with the law related to the Department of Labor and Industries. Furthermore, there may well be times when the minimum bar fee schedule may not be appropriate and the court should have the opportunity to review such situations. I have therefore vetoed the item in section one, page two, lines 9 through 11.

The remainder of Senate Bill 179 is approved."

CHAPTER 307
[Engrossed Senate Bill No. 428.]
MODEL LITTER CONTROL ACT

AN ACT Relating to the public welfare; providing for a Model Litter Control Act; creating new sections; amending section 46.56.135, chapter 12, Laws of 1961 as amended by section 1, chapter 52, Laws of 1965 ex. sess. and RCW 46.61.655; repealing section 1, chapter 36, Laws of 1909, section 1, chapter 73, Laws of 1931, section 49, chapter 281, Laws of 1969 ex. sess. and RCW 9.61.120; repealing section 2, chapter 85, Laws of 1967 and RCW 9.66.060; repealing section 3,

chapter 85, Laws of 1967, section 50, chapter 281, Laws of 1969 ex. sess. and RCW 9.66.070; repealing section 2, chapter 52, Laws of 1965 ex. sess., section 51, chapter 281, Laws of 1969 ex. sess. and RCW 46.61.650; providing penalties; levying a tax; creating an account within the general fund; and declaring an emergency.

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

NEW SECTION. Section 1. Recognizing the rapid population growth of the state of Washington and the ever increasing mobility of its people, as well as the fundamental need for a healthful, clean and beautiful environment; and further recognizing that the proliferation and accumulation of litter discarded throughout this state impairs this need and constitutes a public health hazard; and further recognizing that there is an imperative need to anticipate, plan for, and accomplish effective litter control, there is hereby enacted this "Model Litter Control Act".

NEW SECTION. Sec. 2. The purpose of this 1971 amendatory act is to accomplish litter control throughout this state by delegating to the department of ecology the authority to conduct a permanent and continuous program to control and remove litter from this state to the maximum practical extent possible. Every other department of state government and all local governmental units and agencies of this state shall cooperate with the department of ecology in the administration and enforcement of this 1971 amendatory act. The intent of this 1971 amendatory act is to add to and to coordinate existing litter control and removal efforts and not terminate or supplant such efforts.

NEW SECTION. Sec. 3. As used in this 1971 amendatory act, unless the context indicates otherwise:

- (1) "Department" means the department of ecology;
- (2) "Director" means the director of the department of ecology;
- (3) "Disposable package or container" means all packages or containers defined as such by rules and regulations adopted by the department of ecology;
- (4) "Litter" means all waste material including but not limited to disposable packages or containers thrown or deposited as herein prohibited but not including the wastes of the primary processes of mining, logging, sawmilling, farming, or manufacturing;
- (5) "Litter bag" means a bag, sack, or other container made of any material which is large enough to serve as a receptacle for litter inside the vehicle or watercraft of any person. It is not necessarily limited to the state approved litter bag but must be similar in size and capacity;
- (6) "Litter receptacle" means those containers adopted by the

department of ecology and which may be standardized as to size, shape, capacity, and color and which shall bear the state anti-litter symbol, as well as any other receptacles suitable for the depositing of litter;

(7) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or other entity whatsoever;

(8) "Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(9) "Watercraft" means any boat, ship, vessel, barge, or other floating craft;

(10) "Public place" means any area that is used or held out for use by the public whether owned or operated by public or private interests.

NEW SECTION. Sec. 4. In addition to his other powers and duties, the director shall have the power to propose and to adopt pursuant to chapter 34.04 RCW rules and regulations necessary to carry out the provisions, purposes, and intent of this 1971 amendatory act.

NEW SECTION. Sec. 5. The director may designate trained employees of the department to be vested with police powers to enforce and administer the provisions of this 1971 amendatory act and all rules and regulations adopted thereunder. The director shall also have authority to contract with other state and local governmental agencies having law enforcement capabilities for services and personnel reasonably necessary to carry out the enforcement provisions of this 1971 amendatory act. In addition, state patrol officers, game protectors and deputy game protectors, fire wardens, deputy fire wardens and forest rangers, sheriffs and marshals and their deputies, and police officers, and those employees of the department of ecology and the parks and recreation commission vested with police powers all shall enforce the provisions of this 1971 amendatory act and all rules and regulations adopted thereunder and are hereby empowered to issue citations to and/or arrest without warrant, persons violating any provision of this 1971 amendatory act or any of the rules and regulations adopted hereunder. All of the foregoing enforcement officers may serve and execute all warrants, citations, and other process issued by the courts in enforcing the provisions of this 1971 amendatory act and rules and regulations adopted hereunder. In addition, mailing by registered mail of such warrant, citation, or other process to his last known place of

residence shall be deemed as personal service upon the person charged.

NEW SECTION. Sec. 6. No person shall throw, drop, deposit, discard, or otherwise dispose of litter upon any public property in the state or upon private property in this state not owned by him or in the waters of this state whether from a vehicle or otherwise including but not limited to any public highway, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street, or alley except:

(1) When such property is designated by the state or by any of its agencies or political subdivisions for the disposal of garbage and refuse, and such person is authorized to use such property for such purpose;

(2) Into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of said private or public property or waters.

Any person violating the provisions of this section shall be guilty of a misdemeanor and the fine or bail forfeiture for such violation shall not be less than ten dollars for each offense, and, in addition thereto, in the sound discretion of any court in which conviction is obtained, such person may be directed by the judge to pick up and remove from any public place or any private property with prior permission of the legal owner upon which it is established by competent evidence that such person has deposited litter, any or all litter deposited thereon by anyone prior to the date of execution of sentence.

NEW SECTION. Sec. 7. The director shall prescribe the procedures for the collection of fines and bail forfeitures including the imposition of additional penalty charges for late payment of fines.

NEW SECTION. Sec. 8. Pertinent portions of this 1971 amendatory act shall be posted along the public highways of this state and in all campgrounds and trailer parks, at all entrances to state parks, forest lands, and recreational areas, at all public beaches, and at other public places in this state where persons are likely to be informed of the existence and content of this 1971 amendatory act and the penalties for violating its provisions.

NEW SECTION. Sec. 9. The department shall design and the director shall adopt by rule or regulation one or more types of litter receptacles which are reasonably uniform as to size, shape, capacity and color, for wide and extensive distribution throughout the public places of this state. Each such litter receptacle shall bear an anti-litter symbol as designed and adopted by the department. In addition, all litter receptacles shall be designed to attract attention and to encourage the depositing of litter.

Litter receptacles of the uniform design shall be placed along the public highways of this state and at all parks, campgrounds, trailer parks, drive-in restaurants, gasoline service stations, tavern parking lots, shopping centers, grocery store parking lots, parking lots of major industrial firms, marinas, boat launching areas, boat moorage and fueling stations, public and private piers, beaches and bathing areas, and such other public places within this state as specified by rule or regulation of the director adopted pursuant to chapter 34.04 RCW. The number of such receptacles required to be placed as specified herein shall be determined by a formula related to the need for such receptacles.

It shall be the responsibility of any person owning or operating any establishment or public place in which litter receptacles of the uniform design are required by this section to procure and place such receptacles at their own expense on the premises in accord with rules and regulations adopted by the department.

Any person who fails to place such litter receptacles on the premises in the numbers required by rule or regulation of the department, violating the provisions of this section or rules or regulations adopted thereunder shall be subject to a fine of ten dollars for each day of violation.

NEW SECTION. Sec. 10. The department may design and produce a litter bag bearing the state-wide anti-litter symbol and a statement of the penalties prescribed herein for littering in this state. As soon as possible after the effective date of this 1971 amendatory act, such litter bags may be distributed by the department of motor vehicles at no charge to the owner of every licensed vehicle in this state at the time and place of license renewal. The department of ecology may make such litter bags available to the owners of watercraft in this state and may also provide such litter bags at no charge at points of entry into this state and at visitor centers to the operators of incoming vehicles and watercraft. The owner of any vehicle or watercraft who fails to keep and use a litter bag in his vehicle or watercraft shall be guilty of a violation of this section and shall be subject to a fine as provided in this 1971 amendatory act.

NEW SECTION. Sec. 11. Responsibility for the removal of litter from receptacles placed at parks, beaches, campgrounds, trailer parks, and other public places shall remain upon those state and local agencies performing litter removal. Removal of litter from litter receptacles placed on private property which is used by the public shall remain the responsibility of the owner of such private property.

NEW SECTION. Sec. 12. There is hereby levied and there shall

be collected by the department of revenue from every person engaging within this state in business as a manufacturer and/or making sales at wholesale and/or making sales at retail, an annual litter assessment equal to the value of products manufactured and sold within this state, including by-products, multiplied by one and one-half hundredths of one percent in the case of manufacturers, and equal to the gross proceeds of the sales of the business within this state multiplied by one and one-half hundredths of one percent in the case of sales at wholesale and/or at retail.

NEW SECTION. Sec. 13. Because it is the express purpose of this 1971 amendatory act to accomplish effective litter control within the state of Washington and because it is a further purpose of this 1971 amendatory act to allocate a portion of the cost of administering it to those industries whose products including the packages, wrappings, and containers thereof, are reasonably related to the litter problem, in arriving at the amount upon which the assessment is to be calculated only the value of products or the gross proceeds of sales of products falling into the following categories shall be included:

- (1) Food for human or pet consumption.
- (2) Groceries.
- (3) Cigarettes and tobacco products.
- (4) Soft drinks and carbonated waters.
- (5) Beer and other malt beverages.
- (6) Wine.
- (7) Newspapers and magazines.
- (8) Household paper and paper products
- (9) Glass containers
- (10) Metal containers.
- (11) Plastic or fiber containers made of synthetic material.
- (12) Cleaning agents and toiletries.
- (13) Nondrug drugstore sundry products.

NEW SECTION. Sec. 14. The department of revenue by rule and regulation made pursuant to chapter 34.04 RCW may, if such is required, define the categories (1) through (13) as set forth in section 13 of this 1971 amendatory act. In making any such definitions, the department of revenue shall be guided by the following standards:

- (1) It is the purpose of this 1971 amendatory act to accomplish effective control of litter within this state;
- (2) It is the purpose of this 1971 amendatory act to allocate a portion of the cost of administration of this 1971 amendatory act to those industries manufacturing and/or selling products and the packages, wrappings, or containers thereof which are reasonably related to the litter problem within this state.

NEW SECTION. Sec. 15. "Sold within this state" or "sales of the business within this state" as used in section 12 of this 1971 amendatory act shall mean all sales of retailers engaged in business within this state and all sales of products for use or consumption within this state in the case of manufacturers and wholesalers.

NEW SECTION. Sec. 16. All of the provisions of chapters 82.04 and 82.32 RCW such as they apply are incorporated herein except RCW 82.04.220 through 82.04.290, and 82.04.330.

NEW SECTION. Sec. 17. The litter assessment herein provided for shall not be applied to the value of products or gross proceeds of the sales of any animal, bird, or insect or the milk, eggs, wool, fur, meat, honey, or other substance obtained therefrom, if the person performs only the growing or raising function of such animal, bird, or insect. In all other instances, the assessment shall be applied.

NEW SECTION. Sec. 18. There is hereby created an account within the general fund to be known as the "Litter Control Account". All assessments, fines, bail forfeitures, and other funds collected or received pursuant to this 1971 amendatory act shall be deposited in the litter control account and used for the administration and implementation of this 1971 amendatory act.

NEW SECTION. Sec. 19. The department shall allocate funds annually for the study of available research and development in the field of litter control, removal, and disposal, as well as study methods for implementation in this state of said research and development. In addition, such fund may be used for the development of public educational programs concerning the litter problem. Grants shall be made available for these purposes to those persons deemed appropriate and qualified by the director.

NEW SECTION. Sec. 20. In addition to the foregoing, the department of ecology shall:

(1) Serve as the coordinating agency between the various industry organizations seeking to aid in the anti-litter effort;

(2) Recommend to the governing bodies of all local governments that they adopt ordinances similar to the provisions of this 1971 amendatory act;

(3) Cooperate with all local governments to accomplish coordination of local anti-litter efforts;

(4) Encourage, organize, and coordinate all voluntary local anti-litter campaigns seeking to focus the attention of the public on the programs of this state to control and remove litter;

(5) Investigate the availability of, and apply for funds available from any private or public source to be used in the program outlined in this 1971 amendatory act.

NEW SECTION. Sec. 21. To aid in the state-wide anti-litter

campaign, the state legislature requests that the various industry organizations which are active in anti-litter efforts provide active cooperation with the department of ecology so that additional effect may be given to the anti-litter campaign of the state of Washington.

Sec. 22. Section 46.56.135, chapter 12, Laws of 1961 as amended by section 1, chapter 52, Laws of 1965 ex. sess. and RCW 46.61.655 are each amended to read as follows:

No vehicle shall be driven or moved on any public highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in the cleaning or maintaining of such roadway by public authority having jurisdiction. Any person operating a vehicle from which any glass or objects have fallen or escaped, which would constitute an obstruction or injure a vehicle or otherwise endanger travel upon such public highway shall immediately cause the public highway to be cleaned of all such glass or objects and shall pay any costs therefor.

NEW SECTION. Sec. 23. Every person convicted of a violation of this 1971 amendatory act for which no penalty is specially provided for shall be punished by a fine of not more than ten dollars for each such violation.

NEW SECTION. Sec. 24. The following acts are each hereby repealed:

(1) Section 1, chapter 36, Laws of 1909, section 1, chapter 73, Laws of 1931, section 49, chapter 281, Laws of 1969 ex. sess. and RCW 9.61.120;

(2) Section 2, chapter 85, Laws of 1967 and RCW 9.66.060;

(3) Section 3, chapter 85, Laws of 1967, section 50, chapter 281, Laws of 1969 ex. sess. and RCW 9.66.070;

(4) Section 2, chapter 52, Laws of 1965 ex. sess., section 51, chapter 281, Laws of 1969 ex. sess. and RCW 46.61.650.

NEW SECTION. Sec. 25. If any provision of this 1971 amendatory act or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provisions to other persons or circumstances is not affected.

NEW SECTION. Sec. 26. This 1971 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

NEW SECTION. Sec. 27. This 1971 amendatory act constitutes an alternative to Initiative 40. The secretary of state is directed to place this 1971 amendatory act on the ballot in conjunction with Initiative 40 at the next general election.

This 1971 amendatory act shall continue in force and effect until the secretary of state certifies the election results on this 1971 amendatory act. If affirmatively approved at the general election, this 1971 amendatory act shall continue in effect thereafter.

Passed the Senate May 10, 1971.

Passed the House May 10, 1971.

Approved by the Governor May 21, 1971 with the exception of one item which is vetoed.

Filed in Office of Secretary of State May 21, 1971.

Note: Governor's explanation of partial veto is as follows:

"...This bill is a comprehensive litter control act. It established new litter control powers in the Department of Ecology, and imposes a tax upon those businesses which produce or sell items relating to the litter problem, in order to finance the administration of the act. However, by reason of the fact that the definition of "person" in section 3(7) includes state and local government, the act would by its terms impose the tax upon the State Liquor Control Board, and possibly upon certain local governmental agencies. I believe this result to be unwarranted, and accordingly have vetoed that item from section 3(7) of the act.

Veto
Message

With the exception of the above item, Engrossed Senate Bill No. 428 is approved."

CHAPTER 308

[Engrossed Second Substitute Senate Bill No. 146]

UNIFORM CONTROLLED SUBSTANCES ACT

AN ACT Relating to controlled substances; enacting the Uniform Controlled Substances Act; repealing section 2072, Code of 1881, section 418, chapter 249, Laws of 1909, section 4, chapter 205, Laws of 1963, and RCW 9.91.030; repealing section 69.33.220, chapter 27, Laws of 1959, section 7, chapter 256, Laws of 1969 ex. sess., and RCW 69.33.220; repealing sections 69.33.230 through 69.33.280, chapter 27, Laws of 1959, and RCW 69.33.230 through 69.33.280; repealing section 69.33.290, chapter 27, Laws of 1959, section 1, chapter 97, Laws of 1959, and RCW 69.33.290; repealing section 69.33.300, chapter 27, Laws of 1959, section 8, chapter 256, Laws of 1969 ex. sess.