

2009 DRAFTING REQUEST

Senate Substitute Amendment (SSA-AB139)

Received: **02/15/2010**

Received By: **btradewe**

Wanted: **Soon**

Identical to LRB:

For: **Russell Decker (608) 266-2502**

By/Representing: **David Lovell, Leg. Council**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Environment - solid haz. waste**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Decker@legis.wisconsin.gov**

Carbon copy (CC:) to: **David.Lovell@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Littering, increase penalty for disposing of large items

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	btradewe 02/16/2010	bkraft 02/16/2010	rschluet 02/17/2010	_____ _____ _____	lparisi 02/17/2010 lparisi 02/17/2010	lparisi 02/17/2010	
/1	btradewe 03/01/2010	chanaman 03/01/2010	phenry 03/01/2010	_____ _____	cduerst 03/01/2010	cduerst 03/01/2010	

FE Sent For:

<END>

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Handwritten signatures and initials:
3/1/10
3/1/10
[Signature]

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1 P1 bjk 2/16

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/?	btradewe			_____			

FE Sent For:

<END>

Drafting Instructions for a Substitute Amendment to 2009 Assembly Bill 139, Relating to Littering

- Define “large item” as a large item of solid waste, including an appliance, item of furniture, tire, motor vehicle, recreational vehicle, boat, aircraft, or bicycle, or building materials or demolition waste.
- Specify that any person who deposits or discharges any large item on or along any highway, in any waters of the state, on the ice of any waters of the state or on any other public or private property shall forfeit not more than \$1,000.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBs0293/P1

RCT:.....

Wed. 2/17

Lbjk

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SENATE SUBSTITUTE AMENDMENT,

TO 2009 ^{Assembly} ~~SENATE~~ BILL 139

SA
X-ref

Insert

I fixed
signature

Note

gen.

1 AN ACT ...; relating to: littering and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the maximum penalty for littering is a forfeiture (civil monetary penalty) of \$500. Littering includes depositing solid waste along a highway, in the waters of the state, or on public or private property, other than in a trash receptacle or a solid waste facility, and failing to remove within 30 days, or otherwise abandoning, a vehicle in the waters of the state.

This bill provides that a person who deposits a large item of solid waste along a highway, in the waters of the state, or on public or private property, other than in a trash receptacle or a solid waste facility, is subject to a forfeiture of not more than \$1,000. Large items of solid waste include appliances, furniture, motor vehicles, nonmotorized vehicles, boats, and aircraft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Insert 1-2

2

SECTION 1. 287.81 (1) (as) of the statutes is created to read:

1 287.81 (1) (as) "Large item" means a large item of solid waste, including an
2 appliance, an item of furniture, a tire, a vehicle, a boat, an aircraft, building
3 materials, or demolition waste.

4 **SECTION 2.** 287.81 (2m) of the statutes is created to read:

5 287.81 (2m) Except as provided in sub. (3), a person who deposits any large
6 item on or along any highway, in any waters of the state, on the ice of any waters of
7 the state, or on any other public or private property shall forfeit not more than
8 \$1,000.

9 **SECTION 3.** 287.81 (3) of the statutes is amended to read:

10 287.81 (3) (a) ~~Subsection~~ Subsections (2) (a) ~~does~~ and (2m) do not apply to a
11 person who places solid waste in a receptacle designed for solid waste storage that
12 is located along a highway or on other public or private property.

13 (b) ~~Subsection~~ Subsections (2) ~~does~~ and (3) ^{2m} do not apply to a person who
14 deposits or discharges solid waste in conformance with chs. 30, 31, 281 to 285 or 289
15 to 299 or a permit, license or other approval issued by the department under those
16 chapters.

History: 1989 a. 335; 1991 a. 19; 1995 a. 227 s. 917; Stats. 1995 s. 287.81; 2001 a. 90.

(END)

Note

Insert 1-2

50293/P1

Section #. 27.019 (11) of the statutes is amended to read:

27.019 (11) ENFORCE HIGHWAY LITTERING LAW. Such committee shall work out plans to enforce the ^{provisions} ~~provision~~ of s. 287.81 (2) (a) ^{and (2m)} prohibiting the depositing of solid waste on or along highways.

History: 1977 c. 29 s. 1650m (4); 1979 c. 32, 110; 1983 a. 192; 1989 a. 335; 1995 a. 27 s. 1510b; Stats. 1995 s. 27.019; 1995 a. 227.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0293/P1dn

RCT:.....

Lbjk

Date

This is a draft of the substitute amendment to AB 139. It is in preliminary form to avoid the need to return stripes in case a redraft is wanted.

Please note that the current littering law covers a person who fails to remove within 30 days, or otherwise abandons, a vehicle in the waters of the state. "Vehicle" means every device in or by which any person or property may be transported on a highway. The current law also applies to a person who owns an aircraft that has crashed in the waters of the state and fails to remove the aircraft within 30 days after the crash or after the national transportation safety board authorizes its removal. See current s. 287.81 (2) (c) and (d). The penalty for violating these provisions is a maximum of \$500. The violations under s. 287.81 (2) (c) and (d) seem to be at least as serious as violations of the new s. 287.81 (2m). Should I restructure the littering statute so that the actions described in current s. 287.81 (2) (c) and (d) are subject to the \$1,000 maximum penalty created in this draft?

The definition of "large item" makes s. 287.81 (2m) (created in this draft) quite vague for a statutory prohibition. This may lead to disputes over whether the prohibition applies in a particular case. Alternatives might include defining a large item by weight or size.

Please let me know if you have any questions or want any changes in the draft.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0293/P1dn
RCT:bjk:rs

February 16, 2010

This is a draft of the substitute amendment to AB 139. It is in preliminary form to avoid the need to return stripes in case a redraft is wanted.

Please note that the current littering law covers a person who fails to remove within 30 days, or otherwise abandons, a vehicle in the waters of the state. "Vehicle" means every device in or by which any person or property may be transported on a highway. The current law also applies to a person who owns an aircraft that has crashed in the waters of the state and fails to remove the aircraft within 30 days after the crash or after the national transportation safety board authorizes its removal. See current s. 287.81 (2) (c) and (d). The penalty for violating these provisions is a maximum of \$500. The violations under s. 287.81 (2) (c) and (d) seem to be at least as serious as violations of the new s. 287.81 (2m). Should I restructure the littering statute so that the actions described in current s. 287.81 (2) (c) and (d) are subject to the \$1,000 maximum penalty created in this draft?

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Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

50293/P1

3/1 Per Barb Worcester: Make this only apply to the listed items - not other large items of solid waste.
RT



State of Wisconsin
2009 - 2010 LEGISLATURE

LRBs0293/P1
RCT:bjk:rs

Today, if possible

VWV

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SENATE SUBSTITUTE AMENDMENT,

TO 2009 ASSEMBLY BILL 139

reformat

1 AN ACT to amend 27.019 (11) and 287.81 (3); and to create 287.81 (1) (as) and
2 287.81 (2m) of the statutes; relating to: littering and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the maximum penalty for littering is a forfeiture (civil monetary penalty) of \$500. Littering includes depositing solid waste along a highway, in the waters of the state, or on public or private property, other than in a trash receptacle or a solid waste facility, and failing to remove within 30 days, or otherwise abandoning, a vehicle in the waters of the state.

This bill provides that a person who deposits a large item of solid waste along a highway, in the waters of the state, or on public or private property, other than in a trash receptacle or a solid waste facility, is subject to a forfeiture of not more than \$1,000. Large items of solid waste include appliances, furniture, motor vehicles, nonmotorized vehicles, boats, and aircraft, building material, and demolition waste.

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ties

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 27.019 (11) of the statutes is amended to read:

