

A BILL

entitled

WASTE AND LITTER CONTROL AMENDMENT ACT 2011

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WHEREAS it is expedient to amend the Waste and Litter Control Act 1987 and the Traffic Offences (Penalties) Act 1976, to bring about greater controls for the safe disposal of waste and litter;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act may be cited as the Waste and Litter Control Amendment Act 2011.

Amends section 2

2 Section 2 of the Waste and Litter Control Act 1987 ("the principal Act") is amended—

(a) by inserting, in the appropriate alphabetical order the following—

“approved recording device” means a device for recording sound or visual images, or both, approved by the Minister by notice published in the Gazette;

“sewage” includes the waste of animal life (other than stable manure), water discharged from water closets, urinals, sinks, basins, baths, and all other water used for domestic purposes or in any industrial process;”

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- (b) in the definition of “waste” by—
  - (i) inserting, after the word “means”, the words “sewage or”; and
  - (ii) deleting the words “which is not liquid”.

Amends section 3

3 Section 3 of the principal Act is amended by inserting, immediately after subsection (2), the following—

“(3) For the purpose of determining if an offence has been committed under this section, and for the purpose of prosecuting an offence under this section, circumstantial evidence may be obtained and considered, including—

- (a) written correspondence;
- (b) serial numbers appended to computers;
- (c) serial numbers appended to refrigeration units;
- (d) vehicle identification numbers appended to motor cycles; or
- (e) vehicle identification numbers appended to motor cars.

(4) For the purpose of this Act, evidence obtained from an approved recording device shall be admissible as direct evidence.”.

Inserts sections 4A and 4B

4 The principal Act is amended, by inserting immediately after section 4, the following—

“Reckless littering

4A A person who, while in control of an auxiliary cycle, a motor cycle, a motor car or vessel, who recklessly causes or allows waste to be discarded from the auxiliary cycle, motor cycle, motor car or vessel, onto a public place, commits an offence against this Act.

Reckless littering from trucks

4B A person who, while in control of a truck, who recklessly causes or allows waste to be discarded from the truck (inclusive of waste discarded from the truck cab or cargo load) onto a public place, commits an offence against this Act.”.

Amends section 8

5 Section 8 of the principal Act is amended, by inserting immediately after subsection (6), the following—

“(7) For the avoidance of doubt, licences issued by the Minister, by way of subsection (4), shall contain a waste handler’s licence number, and shall be produced, on demand, for inspection by—

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- (a) waste customers; and
- (b) personnel at waste management disposal facilities, such as the facilities commonly known as—
  - (i) the airport waste management facility;
  - (ii) the government quarry facility;
  - (iii) the Marsh Folly facility;
  - (iv) the material recovery (recycling plant) facility; and
  - (v) the Tynes Bay (waste-to-energy) facility; and
- (c) personnel at any other facility or place approved by the Minister, by way of notice in the Gazette, for the purpose of being in receipt of waste.”.

Amends section 26

6 Section 26 of the principal Act is amended by repealed and replaced with the following—

- “(1) Where a person commits an offence against this Act—
  - (a) punishment on summary conviction: a fine not exceeding \$2,000; or
  - (b) probation with 40 hours community service.
- (2) Where a person commits a subsequent offence against this Act—
  - (a) punishment on summary conviction: a fine not exceeding \$5,000; or
  - (b) imprisonment not exceeding two years.
- (3) Where a person commits an offence against section 3 of this Act—  
punishment on summary conviction: a fine not exceeding \$10,000.
- (4) Where a person commits a subsequent offence against section 3 of this Act—  
punishment on summary conviction: a fine not exceeding \$25,000.
- (5) Where a person commits an offence against section 4A of this Act—
  - (a) punishment on summary conviction: a fine not exceeding \$5,000; or
  - (b) imprisonment not exceeding three years.
- (6) Where a person commits a subsequent offence against section 4A of this Act—

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- (a) punishment on summary conviction: a fine not exceeding \$25,000;  
or
  - (b) imprisonment not exceeding three years.
- (7) Where a person commits an offence against section 4B of this Act—
- (a) punishment on summary conviction: a fine not exceeding \$5,000;  
or
  - (b) imprisonment not exceeding three years.
- (8) Where a person commits a subsequent offence against section 4B of this Act—
- (a) punishment on summary conviction: a fine not exceeding \$25,000;  
or
  - (b) imprisonment not exceeding three years.
- (9) In this section “subsequent”, in relation to a person, means an offence—
- (a) against a provision of this Act under which that person has been convicted in previous proceedings; and
  - (b) involving conduct which, in the court’s opinion, is conduct of the same kind as that of which he was found guilty in those proceedings.”.

### Amends Schedule 1 of the Traffic Offences (Penalties) Act 1976

7 Schedule 1 of the Traffic Offences (Penalties) Act 1976 is amended by inserting, next after the Heads concerning “Road Traffic Act 1947 section 25(12)”, the following Heads—

- “ Head 1: Road Traffic Act 1947
- Head 2: Section 26(1)(e)
- Head 3: Contravention of provision as to driving with an uncovered load
- Head 4: summary
- Head 5: \$2,100 (first offence) or \$5,000 (subsequent offence)
- Head 7: 2 to 4 points ”.

### Commencement

8 (1) This Act comes into operation on such day or days as the Minister may appoint by notice in the Gazette.

(2) A notice may appoint different days for different provisions of this Act to come into operation.

## WASTE AND LITTER CONTROL AMENDMENT BILL 2011

### EXPLANATORY MEMORANDUM

The purpose of this Bill is to amend the Waste and Litter Control Act 1987 (“the principal Act”) and the Traffic Offences (Penalties) Act 1976, to bring about greater controls for the safe disposal of waste and litter.

Clause 1 sets out the citation of the Bill.

Clause 2 amends section 2 of the principal Act, by adding the definition of: (1) approved recording device; (2) sewage; and (3) redefines the definition of “waste” so that it includes liquid waste.

Clause 3 inserts new sections 3(3) and 3(4) to the principal Act, to allow circumstantial evidence to be considered for the purpose of investigating and prosecuting offences committed contrary to this section. By way of section 3(3) circumstantial evidence can include, but is not limited to: (a) written correspondence; (b) serial numbers appended to computers and refrigerators; and (c) vehicle identification numbers appended to motor cycles and motor cars. By way of section 3(4), and for the purpose of the principal Act, evidence obtained from an approved recording device is admissible as direct evidence.

Clause 4 inserts new sections 4A and 4B to the principal Act. Specifically: (1) section 4A creates the offence of reckless littering; and (2) section 4B creates the offence of reckless littering from trucks.

Clause 5 inserts a new section 8(7) to the principal Act, to make it mandatory for licences issued by the Minister under section 8(4) to include a waste handler’s licence number and for waste handlers to produce, on demand, their licence to waste customers or to personnel at waste management disposal facilities.

Clause 6 amends the principal Act by repealing and replacing section 26, adding new penalties.

Clause 7 amends Schedule 1 of the Traffic Offences (Penalties) Act 1976, setting out the penalties for the offence of driving with an uncovered load. Specifically, the penalty for driving with an uncovered load is: (a) \$2,100 for a first offence; (b) \$5,000 for a subsequent offence; and (c) 2 to 4 points, on a driver’s licence, for a first or subsequent offence.

Clause 8 provides for commencement.