

Western Australia

Litter Amendment Bill 2011

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Western Australia

LEGISLATIVE ASSEMBLY

Litter Amendment Bill 2011

A Bill for

An Act to amend the *Litter Act 1979*.

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Litter Amendment Act 2011*.

3 **2. Commencement**

4 This Act comes into operation as follows —

- 5 (a) sections 1 and 2 — on the day on which this Act
6 receives the Royal Assent;
- 7 (b) the rest of the Act — on a day fixed by proclamation,
8 and different days may be fixed for different provisions.

9 **3. Act amended**

10 This Act amends the *Litter Act 1979*.

11 **4. Section 23 amended**

12 In section 23 delete the Penalty and insert:

13

14 Penalty:

- 15 (a) for an individual, a fine of \$5 000;
- 16 (b) for a body corporate, a fine of \$10 000.

17

18 **5. Section 24 amended**

19 In section 24 delete the Penalty and insert:

20

21 Penalty:

- 22 (a) for an individual, a fine of \$5 000;
- 23 (b) for a body corporate, a fine of \$10 000.

24

1 **6. Section 24A amended**

2 (1) In section 24A(1) delete the Penalty and insert:

3

4 Penalty:

5 (a) for an individual, a fine of \$5 000;

6 (b) for a body corporate, a fine of \$10 000.

7

8 (2) In section 24A(2) delete the Penalty and insert:

9

10 Penalty:

11 (a) for an individual, a fine of \$5 000;

12 (b) for a body corporate, a fine of \$10 000.

13

14 **7. Section 24B amended**

15 In section 24B(1) in the Penalty after “Penalty:” insert:

16

17 a fine of

18

19 **8. Section 25 amended**

20 In section 25(9) in the Penalty after “Penalty:” insert:

21

22 a fine of

23

24 **9. Section 26 amended**

25 In section 26(2) delete “Minister” and insert:

26

27 CEO, as defined in the *Environmental Protection*
28 *Act 1986* section 3(1),

29

s. 10

1 **10. Section 27 amended**

2 In section 27(1a) and (3) in the Penalty after “Penalty:” insert:

3

4 a fine of

5

6 **11. Section 27A amended**

7 (1) Before section 27A(1) insert:

8

9 (1A) In this section —

10 *infringement notice* means an infringement notice
11 under section 30;

12 *prosecution notice* means a prosecution notice under
13 the *Criminal Procedure Act 2004*;

14 *relevant time*, in relation to an offence, means the time
15 at which the offence is alleged to have been committed;

16 *responsible person*, for a vehicle, means —

17 (a) if the *Road Traffic (Administration) Act 2008*
18 section 6 is in operation — a person responsible
19 for the vehicle under that section; or

20 (b) if the *Road Traffic (Administration) Act 2008*
21 section 6 is not in operation — a person
22 responsible for the vehicle under the *Road*
23 *Traffic Act 1974* section 5A.

24

25 (2) In section 27A(1):

26 (a) delete “glass” (second occurrence);

27 (b) delete “offence, the driver or person in charge of the
28 vehicle is” and insert:

29

30 offence —

31 (a) the driver or person in charge of the vehicle at
32 the relevant time; or

- 1 (b) if the authorised officer investigating the
- 2 offence is unable to establish who was the
- 3 driver or person in charge of the vehicle at the
- 4 relevant time, a responsible person for the
- 5 vehicle at that time,
- 6 is
- 7
- 8 (3) Delete section 27A(2), (3) and (4) and insert:
- 9
- 10 (2) Despite subsection (1), a person is not to be taken to
- 11 have committed an offence under that subsection if —
- 12 (a) within 14 days after the date of service of an
- 13 infringement notice on the person for the
- 14 offence, the person gives to the person who
- 15 served the infringement notice; or
- 16 (b) within 14 days after the date of service of a
- 17 copy of a prosecution notice on the person for
- 18 the offence, the person gives to the person who
- 19 commenced the prosecution,
- 20 a written statement, on oath or by statutory declaration,
- 21 that complies with subsection (3) or (4), as the case
- 22 requires.
- 23 (3) If the person was the driver or person in charge of the
- 24 vehicle at the relevant time, the statement must verify
- 25 that some other person committed the offence and
- 26 either —
- 27 (a) state the name and address of that other person;
- 28 or
- 29 (b) if that name and address are not known to the
- 30 person, verify that the person does not know
- 31 and cannot by reasonable diligence find out that
- 32 name and address.

s. 11

- 1 (4) If the person was a responsible person for the vehicle at
2 the relevant time, the statement must verify that the
3 person was not the driver or person in charge of the
4 vehicle at that time and either —
5 (a) state the name and address of the driver or
6 person in charge of the vehicle at that time; or
7 (b) if that name and address are not known to the
8 person, verify that the person does not know
9 and cannot by reasonable diligence find out that
10 name and address.
11 (5A) If an infringement notice is served on a person named
12 in a statement given under subsection (2), a copy of the
13 statement must be served with the infringement notice.
14 (5B) If a prosecution is commenced against a person named
15 in a statement given under subsection (2), a copy of the
16 statement must be served, in accordance with the
17 *Criminal Procedure Act 2004* Schedule 2 clause 2, 3 or
18 4, with the copy of the prosecution notice.
19
20 (4) In section 27A(5):
21 (a) delete “subsection (3),” and insert:
22
23 subsections (5A) and (5B),
24
25 (b) delete “supplied” and insert:
26
27 given
28

1 **12. Section 30 amended**

2 In section 30(1) delete the passage that begins with “Where”
3 and ends with “officer may” and insert:

4
5 If —

6 (a) an authorised officer has reason to believe that
7 a person has committed a prescribed offence
8 against this Act, the authorised officer; or

9 (b) under section 27(1) a person is to be taken to
10 have committed a prescribed offence against
11 this Act, an authorised officer,

12 may
13

14 **13. Section 33 amended**

15 (1) In section 33(2)(h):

16 (a) in subparagraph (i) delete “\$200; or” and insert:

17
18 \$2 000; or
19

20 (b) in subparagraph (ii) delete “\$200,” and insert:

21
22 \$2 000,
23

24 (2) In section 33(3) delete “\$1 000” and insert:

25
26 \$5 000
27

=====