WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

ENROLLED
COMMITTEE SUBSTITUTE
FOR
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 398
(Senator K. Facemyer, original sponsor)

[Passed March 13, 2010; in effect ninety days from passage.]
ENROLLED

COMMITTEE SUBSTITUTE

FOR

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 398

(Senator K. Facemyer, original sponsor)

[Passed March 13, 2010; in effect ninety days from passage.]

AN ACT to amend and reenact §22-15A-2 and §22-15A-22 of the Code of West Virginia, 1931, as amended, relating to prohibiting disposal of certain items in landfills; prohibiting the disposal of covered electronic devices; requiring the Solid Waste Management Board to create a program for the proper handling of certain items; and requiring the secretary to promulgate a rule to implement and enforce the disposal program.

Be it enacted by the Legislature of West Virginia:

That §22-15A-2 and §22-15A-22 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 15A. THE A. JAMES MANCHIN REHABILITATION ENVIRONMENTAL ACTION PLAN.

1 Unless the context clearly indicates a different meaning or defined elsewhere in this chapter, as used in this article:

2 (1) "Beneficial use" means the use or reuse of whole waste tires or tire derived material which are reused in constructing retaining walls, rebuilding highway shoulders and subbase, building highway crash attenuation barriers and other civil engineering applications, feed hopper or watering troughs for livestock, other agricultural uses approved by the Department of Environmental Protection, playground equipment, boat or truck dock construction, house or building construction, go-cart, motorbike or race track barriers, recapping, alternative daily cover or similar types of beneficial applications: Provided, That waste tires may not be reused as fencing, as erosion control structures, along stream banks or river banks or reused in any manner where human health or the environment, as determined by the Secretary of the Department of Environmental Protection, is put at risk.

3 (2) "Brand" means the name, symbol, logo, trademark, or other information that identifies a product rather than the components of the product.

4 (3) "Collected for commercial purposes" means taking solid waste for disposal from any person for remuneration regardless of whether or not the person taking the solid waste is a common carrier by motor vehicle governed by article two, chapter twenty-four-a of this code.

5 (4) "Computer" means a desktop, personal computer or laptop computer, including the computer monitor. Computer does not include a personal digital assistant device, computer peripheral devices such as a mouse or other similar pointing device, a printer or a detachable keyboard.
(5) "Court" means any circuit, magistrate or municipal court.

(6) "Covered electronic device" means a television, computer or video display device with a screen that is greater than four inches measured diagonally. "Covered electronic device" does not include a video display device that is part of a motor vehicle or that is contained within a household appliance or commercial, industrial or medical equipment.

(7) "Department" means the Department of Environmental Protection.

(8) "Litter" means all waste material, including, but not limited to, any garbage, refuse, trash, disposable package, container, can, bottle, paper, covered electronic devices, ashes, cigarette or cigar butt, carcass of any dead animal or any part thereof or any other offensive or unsightly matter, but not including the wastes of primary processes of mining, logging, sawmilling, farming or manufacturing.

(9) "Litter receptacle" means those containers suitable for the depositing of litter at each respective public area designated by the secretary's rules promulgated pursuant to subsection (e), section three of this article.

(10) "Manufacturer" means a person that is the brand owner of a covered electronic device or television sold or offered for sale in this state by any means, including transactions conducted through retail sales outlets, catalogs or the Internet.

(11) "Person" means a natural person, corporation, firm, partnership, association or society and the plural as well as the singular.

(12) "Public area" means an area outside of a municipality, including public road and highway rights-of-way, parks and recreation areas owned or controlled by this
(13) "Recyclable materials" means those materials that would otherwise become solid waste for disposal in a refuse disposal system and which may be collected, separated or processed and returned to the marketplace in the form of raw materials or products.

(14) "Remediate or remediation" means to remove all litter, solid waste and tires located above grade at a site: Provided, That remediation does not include clean up of hazardous waste.

(15) "Television" means any telecommunication system device that can receive moving pictures and sound broadcast over a distance and includes a television tuner or a video display device peripheral to a computer in which the display contains a television tuner.

(16) "Secretary" means the Secretary of the Department of Environmental Protection.

(17) "Video display device" means an electronic device with an output surface that displays or is capable of displaying moving graphical images or visual representations of image sequences or pictures that show a number of quickly changing images on a screen to create the illusion of motion. Video display device includes a device that is an integral part of the display and cannot easily be removed from the display by the consumer and that produces the moving image on the screen. A "video display device" may use a cathode-ray tube (CRT), liquid crystal display (LCD), gas plasma, digital light processing, other image-projection technology or imaging display technologies.

(18) "Waste tire" means any continuous solid or pneumatic rubber covering designed to encircle the wheel of a
vehicle but which has been discarded, abandoned or is no longer suitable for its original, intended purpose nor suitable for recapping, or other beneficial use because of wear, damage or defect. A tire is no longer considered to be suitable for its original intended purpose when it fails to meet the minimum requirements to pass a West Virginia motor vehicle safety inspection. Used tires located at a commercial recapping facility or tire dealer for the purpose of being reused or recapped are not waste tires.

(19) "Waste tire monofill or monofill" means an approved solid waste facility where no solid waste except waste tires are placed for the purpose of long term storage for eventual retrieval for marketing purposes.

(20) "Waste tire processing facility" means a solid waste facility or manufacturer that accepts waste tires generated by sources other than the owner or operator of the facility for processing by such means as cryogenics, pyrolysis, pyroprossing cutting, splitting, shredding, quartering, grinding or otherwise breaking down waste tires for the purposes of disposal, reuse, recycling and/or marketing.

(21) "Waters of the state" means generally, without limitation, natural or artificial lakes, rivers, streams, creeks, branches, brooks, ponds, impounding reservoirs, springs, wells, watercourses and wetlands.

(22) "Yard waste" means grass clippings, weeds, leaves, brush, garden waste, shrub or tree prunings and other living or dead plant tissues, except that materials, which due to inadvertent contamination or mixture with other substances which render the waste unsuitable for composting, are not yard waste: Provided, That the same or similar waste generated by commercial agricultural enterprises is excluded.
§22-15A-22. Prohibition on the disposal of certain items; plans for the proper handling of said items required.

(a) It is unlawful to dispose of lead-acid batteries in a solid waste landfill in West Virginia.

(b) It is unlawful to dispose of tires in a solid waste landfill in West Virginia except for waste tires collected as part of the department's waste tire remediation projects or other collection efforts in accordance with the provisions of this article or the pollution prevention program and open dump program or other state-authorized remediation or clean up programs: Provided, That waste tires may be disposed of in solid waste landfills only when the state agency authorizing the remediation or clean up program has determined there is no reasonable alternative available.

(c) It is unlawful to dispose of yard waste in a solid waste facility in West Virginia: Provided, That the prohibitions do not apply to a facility designed specifically to compost yard waste or otherwise recycle or reuse yard waste: Provided, however, That reasonable and necessary exceptions to the prohibitions may be included as part of the rules promulgated pursuant to subsection (f).

(d) Effective January 1, 2011, covered electronic devices, as defined in section two of this article, may not be disposed of in a solid waste landfill in West Virginia.

(e) The Solid Waste Management Board shall design a comprehensive program to provide for the proper handling of yard waste, lead-acid batteries, tires and covered electronic devices.

(f) The secretary shall promulgate rules, in accordance with chapter twenty-nine-a of this code, to implement and enforce the program for yard waste, lead-acid batteries,
(g) The secretary’s rule shall provide for the disposal of yard waste in a manner consistent with one or any combination of the following:

(1) Disposal in a publicly or privately operated commercial or noncommercial composting facility;

(2) Disposal by composting on the property from which domestic yard waste is generated or on adjoining property or neighborhood property if consent is obtained from the owner of the adjoining or neighborhood property;

(3) Disposal by open burning, where not prohibited; or

(4) Disposal in a publicly or privately operated landfill, only where none of the foregoing options are available. The manner of disposal shall only involve small quantities of domestic yard waste generated only from the property of the participating resident or tenant.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved .................. this the ... Day of ................. March, ................., 2010.

Governor