

Senate Bill No. 260

(By Senator Chafin)

[Introduced January 8, 2014; referred to the Committee on
Government Organization; and then to the Committee on the
Judiciary.]

A BILL to amend and reenact §17-23-4 of the Code of West Virginia,
1931, as amended, relating to roads and highways; and
residential community waivers for salvage yards.

Be it enacted by the Legislature of West Virginia:

That §17-23-4 of the Code of West Virginia, 1931, as amended,
be amended and reenacted to read as follows:

ARTICLE 23. SALVAGE YARDS.

**§17-23-4. Areas where establishment prohibited; screening
requirements; existing licensed yards; approval
permit required; issuance; county planning
commission criteria satisfied; fee.**

(a) On and after the effective date of this article: (1) No
license ~~shall~~ may be issued to establish a salvage yard or any part

1 ~~thereof~~ of a salvage yard within one thousand feet of the nearest
2 edge of the right-of-way of any road within the state road system
3 designated and classified or redesignated and reclassified as
4 expressway, trunkline or feeder, or any road within the state road
5 system designated and classified or redesignated and reclassified
6 for purposes of allocation of federal highway funds as part of the
7 federal-aid interstate or primary systems: *Provided*, That this
8 limitation ~~shall~~ does not apply to landfills established and
9 maintained by the state or any county or municipality if ~~such~~ the
10 landfill is effectively screened and obscured by natural objects,
11 plantings, fences or other appropriate means so as not to be
12 visible from the main traveled way of the system; and (2) no
13 license ~~shall~~ may be issued to establish a salvage yard or any part
14 ~~thereof~~ of a salvage yard within five hundred feet of the nearest
15 edge of the right-of-way of any state local service road, unless
16 the view thereof from ~~such~~ the state local service road ~~shall be~~ is
17 effectively screened and obscured by fences: *Provided, however*,
18 That this limitation ~~shall~~ does not apply to landfills established
19 and maintained by the state or any county or municipality if ~~such~~
20 the landfill is effectively screened and obscured by natural
21 objects, plantings, fences or other appropriate means so as not to
22 be visible from the main traveled way of the system; and (3) no
23 license may be issued allowing a salvage yard within one thousand
24 feet of the nearest occupied private residence, unless waived by

1 the owner of ~~such~~ the residence, or within five thousand feet of
2 the nearest occupied private residence ~~which~~ that is part of a
3 residential community unless a waiver is received from each
4 residence that is a part of the residential community. The
5 provisions of this paragraph, as amended, ~~shall~~ apply only to
6 salvage yards licensed after April 1, 1988.

7 (b) The license of any salvage yard ~~duly~~ issued under the
8 former provisions of this article, which salvage yard or any part
9 ~~thereof~~ of a salvage yard on the effective date of this article,
10 is: (1) Within one thousand feet of the nearest edge of the right-
11 of-way of any road within the state road system designated and
12 classified or redesignated and reclassified as expressway,
13 trunkline or feeder, or any road within the state road system
14 designated and classified or redesignated and reclassified for
15 purposes of allocation of federal highway funds as part of the
16 federal-aid interstate or primary systems; or is (2) within five
17 hundred feet of the nearest edge of the right-of-way of any state
18 local service road; or is (3) within one thousand feet of the
19 nearest occupied private residence or within five thousand feet of
20 the nearest occupied private residence ~~which~~ that is part of a
21 residential community, may be renewed only if the view of the said
22 salvage yard and ~~all parts thereof~~ any parts of a salvage yard are
23 effectively screened from the adjacent road by natural objects,
24 plantings, fences or other appropriate means or a waiver is

1 obtained from the owner of an occupied private residence. The
2 provisions of this paragraph, as amended, ~~shall~~ apply only to
3 salvage yards licensed after April 1, 1988.

4 (c) Any salvage yard which, on the effective date of this
5 article, is ~~duly~~ licensed under the former provisions of this
6 article may be established or continue to be operated and
7 maintained without screening by natural objects, plantings, fences
8 or other appropriate means so long as any part of ~~such~~ the salvage
9 yard is: (1) Not located within one thousand feet of any road
10 within the state road system designated and classified or
11 redesignated and reclassified as expressway, trunkline or feeder,
12 or any road within the state road system designated and classified
13 or redesignated and reclassified for the purposes of allocation of
14 federal highway funds as part of the federal-aid interstate or
15 primary systems; or is (2) not located within five hundred feet of
16 the nearest edge of the right-of-way of any state local service
17 road; or is (3) not located within one thousand feet of the nearest
18 residence or within five thousand feet of the nearest occupied
19 private residence which is part of a residential community.
20 Notwithstanding any other provision of this section to the
21 contrary, ownership of a salvage yard ~~duly~~ licensed under the
22 former provisions of this article and continuously maintained and
23 licensed since July 1, 1998, may be sold or otherwise transferred,
24 and the salvage yard ~~shall be~~ is eligible for relicensure and may

1 continue to be operated under the same legal requirements that
2 would have been applicable had the change in ownership not
3 occurred.

4 (d) On or after July 1, 1984, any owner or operator
5 establishing, operating or maintaining a salvage yard for which a
6 license is required under the provisions of this article is ~~hereby~~
7 required to first obtain an approval permit from the county
8 planning commission, or if the county does not have a county
9 planning commission, from an appropriate office or agency
10 designated by the county commission, in which the salvage yard is
11 located. The county planning commission or designated agency or
12 office shall promulgate ~~such~~ reasonable rules including, but not
13 limited to, determining the effect of the proposed salvage yard on
14 residential, business or commercial property investment and values,
15 establishing a quota for the number of salvage yards in the county,
16 and the social, economic and environmental impact on community
17 growth and development in utilities, health, education, recreation,
18 safety, welfare and convenience, if any, before issuing ~~such~~ an
19 approval permit. These rules shall conform to guidelines
20 established in rules promulgated by the commissioner. The fee for
21 the approval permit ~~shall be~~ is \$25, payable upon the filing of the
22 application on forms to be designated and approved by the county
23 planning commission or designated office or agency.

24 (e) Upon the granting of an approval permit by the county

1 planning commission, the owner or operator shall then apply to the
2 commissioner for a license to operate. The commissioner may issue
3 a license to the applicant, but only after an approval permit has
4 issued in the first instance and the location of the salvage yard
5 is in compliance with the location requirements of section four of
6 this article. The approval permit requirement of this section does
7 not apply to any owner or operator who has established, or is
8 operating or maintaining, a salvage yard prior to July 1, 1984.

NOTE: The purpose of this bill is to provide that residents in a residential community can waive the prohibition against the establishment of a salvage yard near their residential community.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.