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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1997



ENROLLED

HOUSE BILL No. 2200

Mr. Speaker, Mr. Kiss, and
Varner and Martin
(By Delegate s)



Passed March 31, 1997

In Effect Ninety Days From Passage

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H. B. 2200

(BY MR. SPEAKER, MR. KISS, AND
DELEGATES VARNER AND MARTIN)

[Passed March 31, 1997; in effect ninety days from passage.]

AN ACT to amend and reenact section four, article twenty-three, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to permitting relicensure upon transfer of existing salvage yards in certain circumstances.

Be it enacted by the Legislature of West Virginia:

That section four, article twenty-three, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, 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.

1 On and after the effective date of this article: (1) No
2 license shall be issued to establish a salvage yard or any
3 part thereof within one thousand feet of the nearest edge
4 of the right-of-way of any road within the state road
5 system designated and classified or redesignated and
6 reclassified as expressway, trunkline or feeder, or any road
7 within the state road system designated and classified or
8 redesignated and reclassified for purposes of allocation of
9 federal highway funds as part of the federal-aid interstate
10 or primary systems: *Provided*, That this limitation shall

11 not apply to landfills established and maintained by the
12 state or any county or municipality if such landfill is
13 effectively screened and obscured by natural objects,
14 plantings, fences or other appropriate means so as not to
15 be visible from the main traveled way of the system; and
16 (2) no license shall be issued to establish a salvage yard or
17 any part thereof within five hundred feet of the nearest
18 edge of the right-of-way of any state local service road,
19 unless the view thereof from such state local service road
20 shall be effectively screened and obscured by fences:
21 *Provided, however,* That this limitation shall not apply to
22 landfills established and maintained by the state or any
23 county or municipality if such landfill is effectively
24 screened and obscured by natural objects, plantings,
25 fences or other appropriate means so as not to be visible
26 from the main traveled way of the system; and (3) no
27 license may be issued allowing a salvage yard within one
28 thousand feet of the nearest occupied private residence,
29 unless waived by the owner of such residence, or within
30 five thousand feet of the nearest occupied private
31 residence which is part of a residential community. The
32 provisions of this paragraph, as amended, shall apply only
33 to salvage yards licensed after the first day of April, one
34 thousand nine hundred eighty-eight.

35 The license of any salvage yard duly issued under the
36 former provisions of this article, which salvage yard or any
37 part thereof on the effective date of this article, is: (1)
38 Within one thousand feet of the nearest edge of the right-
39 of-way of any road within the state road system designated
40 and classified or redesignated and reclassified as
41 expressway, trunkline or feeder, or any road within the
42 state road system designated and classified or redesignated
43 and reclassified for purposes of allocation of federal
44 highway funds as part of the federal-aid interstate or
45 primary systems; or is (2) within five hundred feet of the
46 nearest edge of the right-of-way of any state local service
47 road; or is (3) within one thousand feet of the nearest
48 occupied private residence or within five thousand feet of
49 the nearest occupied private residence which is part of a
50 residential community, may be renewed only if the view of
51 the said salvage yard and all parts thereof are effectively

52 screened from the adjacent road by natural objects,
53 plantings, fences or other appropriate means or a waiver is
54 obtained from the owner of an occupied private residence.
55 The provisions of this paragraph, as amended, shall apply
56 only to salvage yards licensed after the first day of April,
57 one thousand nine hundred eighty-eight.

58 Any salvage yard which, on the effective date of this
59 article, is duly licensed under the former provisions of this
60 article may be established or continue to be operated and
61 maintained without screening by natural objects, plantings,
62 fences or other appropriate means so long as any part of
63 such salvage yard is: (1) Not located within one thousand
64 feet of any road within the state road system designated
65 and classified or redesignated and reclassified as
66 expressway, trunkline or feeder, or any road within the
67 state road system designated and classified or redesignated
68 and reclassified for the purposes of allocation of federal
69 highway funds as part of the federal-aid interstate or
70 primary systems; or is (2) not located within five hundred
71 feet of the nearest edge of the right-of-way of any state
72 local service road; or is (3) not located within one
73 thousand feet of the nearest residence or within five
74 thousand feet of the nearest occupied private residence
75 which is part of a residential community. Notwithstanding
76 any other provision of this section to the contrary,
77 ownership of a salvage yard duly licensed under the
78 former provisions of this article and continuously
79 maintained and licensed since the first day of July, one
80 thousand nine hundred eighty-eight, may be sold or
81 otherwise transferred, and the salvage yard shall be eligible
82 for relicensure and may continue to be operated under the
83 same legal requirements that would have been applicable
84 had the change in ownership not occurred.

85 On or after the first day of July, one thousand nine
86 hundred eighty-four, any owner or operator establishing,
87 operating or maintaining a salvage yard for which a
88 license is required under the provisions of this article is
89 hereby required to first obtain an approval permit from
90 the county planning commission, or if the county does not
91 have a county planning commission, from an appropriate
92 office or agency designated by the county commission, in

93 which the salvage yard is located. The county planning
94 commission or designated agency or office shall
95 promulgate such reasonable rules including, but not
96 limited to, determining the effect of the proposed salvage
97 yard on residential, business or commercial property
98 investment and values, establishing a quota for the number
99 of salvage yards in the county, and the social, economic
100 and environmental impact on community growth and
101 development in utilities, health, education, recreation,
102 safety, welfare and convenience, if any, before issuing
103 such approval permit. These rules shall conform to
104 guidelines established in rules promulgated by the
105 commissioner. The fee for the approval permit shall be
106 twenty-five dollars, payable upon the filing of the
107 application on forms to be designated and approved by
108 the county planning commission or designated office or
109 agency.

110 Upon the granting of an approval permit by the
111 county planning commission, the owner or operator shall
112 then apply to the commissioner for a license to operate.
113 The commissioner may issue a license to the applicant, but
114 only after an approval permit has issued in the first
115 instance and the location of the salvage yard is in
116 compliance with the location requirements of section four
117 of this article. The approval permit requirement of this
118 section does not apply to any owner or operator who has
119 established, or is operating or maintaining, a salvage yard
120 prior to the first day of July, one thousand nine hundred
121 eighty-four.

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

Randy Schoonover
Chairman Senate Committee

Nick Fantasia
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.
Darrell E. Johnson
Clerk of the Senate

Bryony in. Gray
Clerk of the House of Delegates,

Carl Ray Tomblin
President of the Senate

[Signature]
Speaker of the House of Delegates

The within is approved this the 15th
day of April, 1997.

[Signature]
Governor

PRESENTED TO THE

GOVERNOR

Date 4/9/97

Time 10:00 am