WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1967

ENROLLED

SENATE BILL NO. 17

(By Mr. [signature])

PASSED March 14, 1967

In Effect July 1, 1967

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 3-21-67
ENROLLED

Senate Bill No. 17
(By Mr. Moreland)

[Passed March 11, 1967; in effect July 1, 1967.]

AN ACT to repeal article twenty-three, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article twenty-three, relating to the licensing, regulation and control of salvage yards, prescribing areas in which no salvage yards are permitted and areas in which salvage yards are permitted only if screened by fences, providing for the removal of certain salvage yards or the acquisition thereof by purchase or proceeding in eminent domain, declaring salvage yards in violation of the article to be public nuisances which may be abated by court action, providing penalties and providing a severability clause.
Be it enacted by the Legislature of West Virginia:

That article twenty-three, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that a new article twenty-three be enacted in lieu thereof, to read as follows:

ARTICLE 23. SALVAGE YARDS.

§17-23-1. Legislative finding.

The Legislature hereby finds and declares that the establishment, operation, maintenance and use of salvage yards in areas adjacent to state roads, including federal-aid interstate and primary roads, is unsightly, visually offensive, depresses the value of the public investment in such roads, detracts from the safety and recreational value of travel thereon and destroys natural beauty, and therefore should be controlled in order to protect the public investment in such highways, to promote the safety and recreational value of public travel thereupon, and to preserve natural beauty.


As used in this article:

(a) "Salvage" shall mean old or scrap copper, brass,
rope, rags, batteries, paper, rubber, trash, waste, junked, dismantled or wrecked machinery, machines or motor vehicles or any parts of any junked, dismantled or wrecked machinery, machines or motor vehicles, iron, steel and other old or scrap ferrous or nonferrous materials.

(b) "Salvage yard" shall mean any place which is maintained, operated or used for the storing, keeping, buying, selling, or processing of salvage, or for the operation and maintenance of a motor vehicle graveyard, and the term shall also include garbage dumps and sanitary fills.

(c) "Fence" shall mean an enclosure, barrier or screen constructed of materials or consisting of plantings, natural objects or other appropriate means approved by the commissioner and located, placed or maintained so as effectively to screen at all times salvage yards and the salvage therein contained from the view of persons passing upon the public roads of this state.

(d) "Owner or operator" shall include an individual, firm, partnership, association or corporation or the plural thereof.
25  (e) "Commissioner" shall mean the state road com-
26  missioner of West Virginia.

§17-23-3. Issuance of license; disposition of license fees.

No salvage yard or any part thereof shall be established,
2  operated or maintained without a license. The commis-
3  sioner shall have the sole authority to issue such a license,
4  and he shall charge therefor a fee of fifty dollars payable
5  annually in advance. All licenses issued under this sec-
6  tion shall expire on the first day of January following the
7  date of issuance. A license may be renewed from year
8  to year upon paying the commissioner the sum of fifty
9  dollars for each such renewal. All such license fees col-
10  lected under the provisions of this article shall be de-
11  posited in the special fund provided for in section ten of
12  this article.

§17-23-4. Areas in which no salvage yard permitted; require-
ments for screening; areas in which no screening re-
quired.

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
of the right of way of any road within the state road system designated and classified or redesignated and reclassified as expressway, trunk line, or feeder, or any road within the state road system designated and classified or redesignated and reclassified for purposes of allocation of federal highway funds as part of the federal-aid interstate or primary systems, and (2) no license shall be issued to establish a salvage yard or any part thereof within three hundred feet of the nearest edge of the right of way of any state local service road, unless the view thereof from such state local service road shall be effectively screened and obscured by fences.

The license of any salvage yard duly issued under the former provisions of this article, which salvage yard or any part thereof on the effective date of this article, is (1) within one thousand feet of the nearest edge of the right of way of any road within the state road system designated and classified or redesignated and reclassified as expressway, trunk line, or feeder, or any road within the state road system designated and classified or redesignated or reclassified for purposes of allocation of federal
highway funds as part of the federal-aid interstate or primary systems or is

(2) within three hundred feet of the nearest edge of the right of way of any state local service road, may be renewed only if the view of the said salvage yard and all parts thereof is effectively screened from the adjacent road by fences.

Any salvage yard which, on the effective date of this article, is duly licensed under the former provisions of this article may be established or continue to be operated and maintained without screening by fences so long as any part of such salvage yard is (1) not located within one thousand feet of any road within the state road system designated and classified or redesignated and reclassified as expressway, trunk line, or feeder, or any road within the state road system designated and classified or redesignated and reclassified for the purposes of allocation of federal highway funds as part of the federal-aid interstate or primary systems or is (2) not located within three hundred feet of the nearest edge of the right of way of any state local service road.
§17-23-5. Requirements as to fences.

Fences shall be kept in good order and repair and no advertisement shall be permitted thereon other than the name of the licensee and the nature of the business conducted on the premises. The height, location, construction, planting, size and composition of any sign or advertisement and maintenance of fences, living or otherwise shall conform to such rules and regulations as are promulgated with respect thereto by the commissioner.

§17-23-6. Payment of costs of screening.

The costs of screening by fences shall be paid by the salvage yard owner or operator: Provided, That if in the opinion of the commissioner, such screening cannot be accomplished by the usual and ordinary methods, the commissioner may determine and pay such additional costs as are necessary and required to provide effective screening.

§17-23-7. Exempt areas.

The provisions of this article shall not apply to salvage yards or any parts thereof within municipalities situated
in areas zoned industrial, nor to salvage yards or any parts thereof situated in areas within municipalities not zoned industrial but which the commissioner determines are used for industrial activities. The provisions of section four of this article shall not apply to salvage yards within municipalities in existence on the effective date of this article but not required to be licensed under the former provisions of this article, if the view of said salvage yards is effectively screened from the adjacent road by fences.

§17-23-8. Commissioner’s power to pay costs of removal of salvage yard or to purchase same; no license to be issued to a salvage yard at a location at which a salvage yard was terminated unless provisions of this article complied with.

Whenever a salvage yard is so situated that it or any part thereof is or shall be required to be effectively screened by fences as provided in section four of this article, and the said salvage yard or any part thereof cannot, in the opinion of the commissioner, be effectively screened by fences to comply with the provisions of this
article, so that the owner or operator of the salvage yard cannot lawfully continue to operate and do business in compliance with the terms hereof, then and only in such event, the commissioner, in addition to all other powers herein conferred, may (1) with the consent of said owner or operator, pay the cost of removal of all salvage and equipment from such salvage yard to such other location as the said owner or operator may direct whereon a salvage yard business may be conducted in compliance with the provisions of this article, or (2) purchase at private sale or acquire by proceeding in eminent domain, in accordance with the provisions of chapter fifty-four of this code, all such property rights and interests, other than title to real property, as are necessary and required to effect a lawful termination of the salvage business conducted on any such salvage yard, or on any part thereof.

If any salvage yard at any location is terminated under the provisions of this section or by court order as provided in section nine of this article, the commissioner shall not thereafter license any salvage yard at any such location if such location or any part thereof is (1) within one thou-
sand feet of the nearest edge of the right of way of any road within the state road system designated and classified or redesignated and reclassified as expressway, trunk line or feeder, or any road within the state road system designated and classified or redesignated and reclassified for purposes of allocation of federal highway funds as part of the federal-aid interstate or primary systems or (2) within three hundred feet of the nearest edge of the right of way of any state local service road, unless and until the view of such salvage yard or any part thereof from such state local service road is screened by fences as provided in this article.

§17-23-9. Salvage yard in violation of this article is public nuisance; right to abate nuisance; penalties.

The establishment, operation or maintenance of a salvage yard or any part thereof in violation of any provision of this article is hereby declared to be a public nuisance, and the commissioner or the prosecuting attorney of the county in which such salvage yard or any part thereof is located shall apply to the circuit court or other court of competent jurisdiction of the county in which said salvage
yard or any part thereof is located, for an injunction to
abate such nuisance. The court shall have authority to
hear and decide such questions and grant injunctions or
such other relief as the court may deem proper.

Any person violating any provision of this article,
whether as principal, agent or employee, shall be deemed
guilty of a misdemeanor, and, upon conviction thereof,
shall be punished by a fine of not less than one hundred
dollars nor more than one thousand dollars; and such per-
son shall be guilty of a separate offense for each month
during a portion of which any violation of this article is
committed, continued or permitted: Provided, however,
That in the event of an appeal from any such conviction,
the period between the date a notice of appeal is filed
and the date of the final order of the court last considering
the appeal shall not be considered a period of continuing
in violation of this article.

§17-23-10. Special fund.

There is hereby created a special fund, to the credit of
which shall be paid such funds as may from time to time
be appropriated by the Legislature, all funds received
from licenses issued under section three of this article and all federal funds allocated and distributed to the state of West Virginia in implementation of the provisions of title 23, United States code, relating to junkyards (salvage yards), to be administered by the commissioner in the enforcement and carrying out of the provisions of this article.


To implement the provisions of this article, the commissioner is hereby authorized and empowered to promulgate rules and regulations in accordance with the provisions of chapter twenty-nine-a of this code.

§17-23-12. Other statutes not applicable.

The provisions of section seven, article twelve, chapter eleven, and article thirteen-a, chapter eleven of this code, shall not apply to salvage yards covered by the provisions of this article.


If any provision of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not
4 affect other provisions or applications of this article, and
5 to this end the provisions of this article are declared to be
6 severable.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Temper
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1967.

Howard Hager
Clerk of the Senate

G. Blakenship
Clerk of the House of Delegates

Howard W. Casso
President of the Senate

W. Lanier White
Speaker House of Delegates

The within approved this the 17 day of March, 1967.

Huddie C. Smith
Governor
PRESENTED TO THE
GOVERNOR

Date  3/17/67
Time  3:45 p.m.