

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1970

ENROLLED

SENATE BILL NO. 70

(By Mr. Garnier and Mr. Floyd)

PASSED February 11, 1970

In Effect Twenty days from Passage

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 2-18-70

70

ENROLLED

Senate Bill No. 70

(By MR. GAINER and MR. FLOYD)

[Passed February 11, 1970; in effect ninety days from passage.]

AN ACT to repeal sections eleven and twelve, article four, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend chapter seventeen of said code by adding thereto a new article, designated article twenty-four, relating to disposal of junk and abandoned vehicles, providing for public notice to determine vehicle owners and lienholders, providing for sale at auction by law enforcement agencies of vehicles unclaimed and for simplified methods to transfer junk and abandoned vehicles to demolishers for demolition, wrecking, and dismantling junk and abandoned vehicles.

Be it enacted by the Legislature of West Virginia:

That sections eleven and twelve, article four, chapter seven-teen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that chapter seventeen of said code be amended by adding thereto a new article, designated article twenty-four, to read as follows:

ARTICLE 24. DISPOSAL OF JUNK AND ABANDONED VEHICLES.

§17-24-1. Definitions.

1 As used in this article, unless the context clearly re-
2 quires a different meaning:

3 "Vehicle" means any device in, upon, or by which per-
4 sons or property may be transported or drawn that is
5 operated customarily in contact with or immediately ad-
6 jacent to the surface of the earth and which device is self-
7 propelled or propelled by an energy providing force ex-
8 cept those devices propelled or drawn by human energy
9 or used exclusively upon stationary rails or tracks.

10 "Junk vehicle" means any vehicle that is not lawfully
11 and validly registered and remains inoperative or in-
12 capable of being driven for a period of ten days after the
13 day the vehicle becomes inoperative or incapable of being

14 driven and which vehicle the owner, bailee or finder,
15 whichever is applicable, within the ten-day period, fails to
16 have made operative or capable of being driven or fails to
17 make arrangements to have the vehicle made operative or
18 capable of being driven.

19 "Abandon" or "abandoned" means to permit or allow
20 any vehicle to become an abandoned vehicle.

21 "Abandoned vehicle" means any vehicle or major part
22 thereof that is inoperative and is left unattended on public
23 property for any period of time over ten days, or any
24 vehicle or major part thereof that has remained illegally
25 on public property for any period of time over ten days,
26 or any vehicle or major part thereof that has remained
27 on private property without consent of the owner or per-
28 son in control of the property for any period of time over
29 ten days or any vehicle or major part thereof that is un-
30 attended, discarded, deserted and unlicensed or is inopera-
31 tive for any period of time over one hundred eighty days.

32 "Law enforcement agency" means any public law en-
33 forcement agency of the state, counties, and municipalities
34 within the state of West Virginia.

35 "Demolisher" means any licensed person (other than his
36 agents or employees, if any, while acting within the scope
37 of their authority or employment) whose business, to any
38 extent or degree, is to convert a vehicle into processed
39 scrap or scrap metal, or into saleable parts, or otherwise
40 to wreck or dismantle vehicles.

§17-24-2. Legislative declaration; purpose of article.

1 The Legislature recognizes and declares that junk
2 and abandoned vehicles are nuisances to both adults
3 and children and therefor are dangerous and consti-
4 tute a present danger; that junk and abandoned vehicles
5 serve as harborage and breeding places for flies, mosqui-
6 toes, fleas, ticks, mice, rats and other insects, pests and
7 rodents injurious to the public health, safety and gen-
8 eral welfare; that junk and abandoned vehicles serve
9 frequently as temporary or permanent places of human
10 residence uncondusive to public health, safety and wel-
11 fare; therefore the Legislature declares it to be the public
12 policy of the state of West Virginia, in order to eliminate
13 the present danger resulting from junk and abandoned
14 vehicles, and in order to provide for the public health,

15 safety and welfare, to enact legislation to that end by
16 providing expeditious means and methods for the disposal
17 of junk and abandoned vehicles.

§17-24-3. Abandonment of vehicle prohibited.

1 No person shall abandon a vehicle upon public property
2 or upon property which he does not own, lease, rent or
3 otherwise control within the state of West Virginia.

§17-24-4. Penalty; abandoned vehicle.

1 Any person who abandons a vehicle shall be guilty of a
2 misdemeanor, and, upon conviction thereof, shall be fined
3 not less than one hundred dollars nor more than one
4 thousand dollars, or imprisoned in the county jail not
5 less than three nor more than six months.

§17-24-5. Authority to take possession of abandoned vehicles.

1 Any law enforcement agency that has knowledge of,
2 or discovers or finds any vehicle abandoned on private or
3 public property shall take into custody that vehicle. For
4 that purpose, the law enforcement agency may employ
5 its own personnel, equipment and facilities or hire per-
6 sons, equipment and facilities for the purpose of remov-
7 ing, preserving and storing abandoned vehicles.

§17-24-6. Notification of vehicle owner and lienholders.

1 (a) A law enforcement agency which takes into cus-
2 tody an abandoned vehicle shall notify within fourteen
3 days after taking custody, by registered or certified mail,
4 return receipt requested, the last known registered owner
5 of the vehicle and all lienholders of record that the
6 vehicle has been taken into custody. The notice shall
7 contain a full description of the vehicle including the year,
8 make, model, manufacturer's serial or identification num-
9 ber or any other number that may have been assigned to
10 the vehicle by the commissioner of motor vehicles and
11 any distinguishing marks; set forth the location of the
12 facility where the vehicle is being held; inform the owner
13 and any lienholders of record of their right to reclaim
14 the vehicle within ten days after the date notice was re-
15 ceived by the owner or lienholders, upon payment of all
16 towing, preservation and storage charges resulting from
17 taking and placing the vehicle in custody; and state that
18 the failure of the owner or lienholders of record to exer-
19 cise their right to reclaim the vehicle within the ten-day
20 period shall be deemed a waiver by the owner and all

21 lienholders of record of all right, title and interest in the
22 vehicle and of their consent to the sale of the abandoned
23 vehicle at a public auction.

24 (b) If the identity of the last registered owner of the
25 abandoned vehicle cannot be determined; or if the cer-
26 tificate of registration or certificate of title contains no
27 address for the owner; or if it is impossible to determine
28 with reasonable certainty the identity and addresses of
29 all lienholders, notice shall be published as a Class II legal
30 advertisement in compliance with the provisions of article
31 three, chapter fifty-nine of this code, and the notice shall
32 be published in a newspaper of general circulation in the
33 county wherein the vehicle was abandoned, and the
34 notice shall be sufficient to meet all requirements of notice
35 pursuant to this article. Any notice by publication can
36 contain multiple listings of abandoned vehicles. The
37 notice shall be published within fourteen days after the
38 vehicle is taken into custody and shall have the same con-
39 tents required for notice in subsection (a) of this section.

40 (c) The consequences and effect of failure to reclaim
41 an abandoned vehicle within the ten-day period after

42 notice is received by registered or certified mail or within
43 ten days after the final notice is published in a newspaper
44 shall be set forth in the notice.

§17-24-7. Auction of abandoned vehicles.

1 If an abandoned vehicle is not reclaimed as provided
2 for in section six of this article, the law enforcement
3 agency in possession of the abandoned vehicle shall sell
4 it at a public auction. The purchaser of the vehicle shall
5 take title to the vehicle free and clear of all liens
6 and claims of ownership, shall receive a sales receipt
7 from the law enforcement agency that auctioned the
8 vehicle and shall be entitled to register the purchased
9 vehicle and receive a certificate of title on presentation
10 of the sales receipt to the department of motor vehicles
11 and upon compliance with the provisions of article three,
12 chapter seventeen-a of this code. The sales receipt at such
13 sale shall be sufficient title only for purposes of trans-
14 ferring the vehicle to a demolisher for demolition, wreck-
15 ing or dismantling, and no further titling of the vehicle
16 shall be necessary by either the purchaser at auction or
17 by the demolisher, both of whom shall be exempt from

18 the payment of any fees and taxes required under article
19 three, chapter seventeen-a of this code: *Provided*, That
20 the purchaser at auction must place the vehicle in the
21 possession of a demolisher within thirty days from the
22 date he purchased the vehicle and the demolisher must
23 demolish, wreck or dismantle the vehicle within six
24 months after taking possession of the vehicle and if they
25 do not they shall be required to pay any fees and taxes re-
26 quired under article three, chapter seventeen-a of this
27 code.

§17-24-8. Proceeds from sale of abandoned vehicle.

1 From the proceeds of the sale, the law enforcement
2 agency which sold the abandoned vehicle shall reimburse
3 itself for any expenses it may have incurred in conduct-
4 ing the auction, any costs of towing, preserving and stor-
5 ing the vehicle which resulted from placing the aban-
6 doned vehicle in custody, and all notice and publication
7 costs incurred pursuant to section six of this article.

8 Any remainder from the proceeds of sale after payment
9 of these costs shall be held for the last registered owner
10 of the vehicle or entitled lienholder for ninety days, after

11 which time, if no owner or lienholder claims the remaind-
12 er, it shall be deposited in the state treasury to be kept
13 and maintained as a special revolving account designated
14 as the "abandoned vehicle disposal account" and any
15 moneys so collected and deposited shall be used solely
16 by law enforcement agencies for the payment of auction,
17 towing, preserving, storage and all notice and publica-
18 tion costs which result from placing other abandoned
19 vehicles in custody, whenever the proceeds from a sale
20 of those abandoned vehicles are insufficient to meet these
21 expenses and costs.

22 The "abandoned vehicle disposal account" shall be
23 under the direction and control of the commissioner of
24 motor vehicles. He shall assure that moneys are properly
25 deposited in the account by any law enforcement agency
26 that sells any abandoned vehicles at auction and that any
27 moneys necessary to pay costs and expenses of those sales,
28 as specified in the preceding paragraph are disbursed in
29 accordance with state accounting procedures to law en-
30 forcement agencies selling an abandoned vehicle.

31 The "abandoned vehicle disposal account" shall never

32 be maintained in excess of the amount necessary to
33 efficiently and properly carry out the intentions of this
34 article and in no event shall the "abandoned vehicle dis-
35 posal account" be maintained in excess of the sum of
36 five thousand dollars; whenever the "abandoned vehicle
37 disposal account" exceeds that amount, the commissioner
38 of motor vehicles shall transfer the excess to the state
39 general revenue fund.

§17-24-9. Garagekeepers and abandoned vehicles.

1 Any vehicle left for more than ten days in a garage
2 operated for commercial purposes, after notice by the
3 garagekeeper by registered or certified mail, return re-
4 ceipt requested, to the owner to pick up the vehicle, shall
5 be deemed and considered an abandoned vehicle and shall
6 be reported by the garagekeepers to the appropriate law
7 enforcement agency.

8 All abandoned vehicles left in garages shall be taken
9 into custody by the law enforcement agency to which
10 they are reported and sold in accordance with the pro-
11 cedure set forth in this article unless prior to sale the
12 vehicle is properly reclaimed and the garagekeeper paid

13 any costs he may have incurred regarding the vehicle.
14 If the vehicle is sold the proceeds of the sale shall first
15 be applied to the garagekeeper's charges for servicing,
16 storage or repair of the vehicle, and any surplus after
17 such payment shall be distributed in accordance with
18 section eight of this article.

19 Nothing in this section shall be construed to impair any
20 lien of a garagekeeper under the laws of this state or the
21 right of a lienholder to foreclose.

22 For purposes of this section "garagekeeper" means any
23 operator of a parking place, lot or establishment, vehicle
24 storage facility or establishment for the servicing, repair
25 or maintenance of vehicles.

**§17-24-10. Disposal of abandoned vehicle directly to de-
molisher.**

1 (a) Any person, firm, corporation or state, county or
2 municipality within the state of West Virginia upon
3 whose property or in whose possession is found any
4 abandoned vehicle or any person being the owner of a
5 vehicle whose certificate of title is faulty, lost or de-
6 stroyed, may apply to the law enforcement agency of the

7 jurisdiction in which the vehicle is situated for authority
8 to sell, give away or dispose of the vehicle to a demolisher.

9 (b) The application shall set out the name and address
10 of the applicant, the year, make, model, manufacturer's
11 serial or identification number or any other number that
12 may have been assigned to the vehicle by the commis-
13 sioner of motor vehicles, if ascertainable, and any dis-
14 tinguishing marks and shall contain a concise statement
15 of the facts surrounding the abandonment, or that the
16 title of the vehicle is lost or destroyed, or the reasons for
17 the defect of title in the owner. The applicant shall
18 execute an affidavit stating that the facts alleged in the
19 application are true and that no material fact has been
20 withheld.

21 (c) If the law enforcement agency finds that the appli-
22 cation is executed in proper form and shows that the
23 vehicle has been abandoned upon the property of the
24 applicant or if it shows that the applicant appears to be
25 the rightful owner, the law enforcement agency shall
26 follow the notification procedures set forth in section six
27 of this article.

28 (d) If the abandoned vehicle is not reclaimed in ac-
29 cordance with section six of this article, the law enforce-
30 ment agency shall give the applicant a certificate of au-
31 thority to sell the vehicle, which certificate shall be
32 sufficient title only for purposes of transferring the vehicle
33 to a demolisher for demolition, wrecking or dismantling,
34 and no further titling of the vehicle shall be necessary
35 by either the applicant or the demolisher both of whom
36 shall be exempt from the payment of any fees and taxes
37 required under article three, chapter seventeen-a of this
38 code: *Provided*, That the demolisher must demolish,
39 wreck or dismantle the vehicle within six months after
40 taking possession of the vehicle and if he does not he shall
41 be required to pay any fees and taxes required under
42 article three, chapter seventeen-a of this code.

43 (e) Notwithstanding any other provisions of this
44 article, any person, firm, corporation, or any state, county
45 or municipality within the state of West Virginia upon
46 whose property or in whose possession is found an aban-
47 doned vehicle, or any person being the owner of a vehicle
48 whose certificate of title is faulty, lost or destroyed, may

49 dispose of the vehicle to a demolisher without title and
50 without complying with the notification procedures set
51 forth in section six of this article if the vehicle is nine
52 years old or older and has no engine or is totally in-
53 operative.

§17-24-11. Duties of demolisher.

1 Notwithstanding any provisions contained in chapter
2 seventeen-a to the contrary, any demolisher who pur-
3 chases or otherwise acquires a vehicle for purposes of
4 wrecking, dismantling or demolition shall be exempt from
5 the payment of any fees and taxes required under chapter
6 seventeen-a of this code: *Provided*, That the demolisher
7 must demolish, wreck or dismantle the vehicle within
8 six months after taking possession of the vehicle and if he
9 does not he shall be required to obtain a certificate of title
10 in his name and pay the fees and taxes required under
11 article three, chapter seventeen-a of this code. Immediately
12 after the vehicle has been demolished, wrecked, dismantl-
13 ed or changed so that it physically is no longer a vehicle,
14 the demolisher shall surrender to the department of motor
15 vehicles for cancellation the certificate of title or auction

16 sales receipt for the vehicle with the word "scrapped" or
17 word or words of similar meaning written across the face
18 thereof. If the demolisher does not have a certificate of
19 title or auction sales receipt for the vehicle, he shall give
20 notice to the department of motor vehicles on the form
21 the department shall prescribe.

22 The department of motor vehicles shall issue forms, rules
23 and regulations governing the surrender of auction sales
24 receipts, certificates of title and notification to the depart-
25 ment that a vehicle has been demolished, wrecked, dis-
26 mantled or changed so that it physically is no longer a
27 vehicle, as are appropriate; but no action of the depart-
28 ment shall change the purpose or intent of this article or
29 slow down or impair the mechanisms and methods for dis-
30 posing of abandoned and junk vehicles provided for
31 herein.

32 A demolisher shall keep an accurate and complete
33 record of all vehicles purchased or otherwise acquired by
34 him in the course of his business. These records shall con-
35 tain the name and address of the person from whom each
36 vehicle was purchased or otherwise acquired and the date

37 of purchase the date required. The records shall be open
38 for inspection by any law enforcement agency at any time
39 during normal business hours. Any record required under
40 this section shall be kept by the demolisher for a period
41 of at least two years.

§17-24-12. General repealer.

1 All other laws or parts of laws inconsistent with this
2 article are hereby repealed to the extent of such
3 inconsistency.

§17-24-13. Severability.

1 If any provision of this article or the application thereof
2 in any case or situation is held invalid, that invalidity
3 shall not affect other provisions or applications of this
4 article, and to this end the provisions of this article are
5 declared severable.

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

William Taylor
Chairman Senate Committee

Phyllis J. Rutledge
Vice-Chairman House Committee

Originated in the Senate.

To take effect 90 days from passage.

Howard Myers
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Ray P. Gann
President of the Senate

Sam F. Brantley
Speaker House of Delegates

The within *approved* this the *16th*
day of *February*, 1970.

Arch A. Shaue Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 2/13/70
Time 4:42 p.m.