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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1973

ENROLLED

SENATE BILL NO. 145

(By Mr. Hatfield)

PASSED April 13, 1973

In Effect 90 Days from Passage

FILED IN THE OFFICE
EDGAR F. WEISKELL III
SECRETARY OF STATE
THIS DATE 5/3/73

145

ENROLLED
Senate Bill No. 145
(By Mr. Hatfield)

[Passed April 12, 1973; in effect ninety days from passage.]

AN ACT to amend and reenact section eleven, article four, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section fifteen, article five of said chapter, relating to natural resources; relating to the cleanliness and improvement of highways, roads, streets, alleys and other public areas and ways; making it unlawful to place, deposit, dump or throw, or cause to be placed, deposited, dumped or thrown, any litter, garbage, refuse, trash, can, bottle, paper, ashes, cigarette or cigar butt, carcass of any dead animal or any part thereof, offal or any other offensive or unsightly matter in or upon any public or private highway, road, street or alley, or upon certain land, private property or any public park or property; specifying that certain activities shall be prima facie evidence that the owner and driver of a motor vehicle intended to violate the prohibitions set forth in said section eleven; relating to the duties of commissioner of motor vehicles; requiring the posting of appropriate signs concerning the maximum penalty for littering; making it unlawful to place, deposit, dump or throw, or cause to be placed, deposited, dumped or thrown, any litter, garbage, refuse, trash, can, bottle, paper, ashes, carcass of any dead animal or any part thereof, offal or any other offensive or unsightly matter into any river, stream, creek, branch, brook, lake or pond, or upon the surface of certain land; providing certain exceptions to the prohibitions contained in said sections eleven and fifteen; specifying that certain activities shall be prima facie evidence of intent to violate the prohibitions set forth in said section fifteen; relating to enforcement authority; providing criminal offenses and penalties; and authorizing the suspen-

sion of the execution of any sentence imposed for violating any of the above-stated prohibitions, such suspension to be conditioned upon the performance of certain work.

Be it enacted by the Legislature of West Virginia:

That section eleven, article four, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section fifteen, article five of said chapter be amended and reenacted, all to read as follows:

ARTICLE 4. PARKS AND RECREATION.

§20-4-11. Highway beautification; unlawful disposal of litter, etc.; notice of section violations; evidence; enforcement; penalties; removal of litter.

1 The director of the department of natural resources in
2 cooperation with the commissioner of highways, the de-
3 partment of public safety, the United States forestry ser-
4 vice, and other local, state and federal law-enforcement
5 agencies, shall be responsible for the administration and
6 enforcement of all laws and regulations relating to the
7 maintenance of cleanliness and improvement of appear-
8 ances on and along highways, roads, streets, alleys and
9 other public areas and ways of the state and shall make
10 recommendations to the director from time to time con-
11 cerning means and methods of accomplishing state highway
12 beautification consistent with the provisions of this chapter.

13 It shall be unlawful to place, deposit, dump or throw,
14 or cause to be placed, deposited, dumped or thrown, any
15 litter, garbage, refuse, trash, can, bottle, paper, ashes,
16 cigarette or cigar butt, carcass of any dead animal or
17 any part thereof, offal or any other offensive or unsightly
18 matter in or upon any public or private highway, road,
19 street or alley, or upon the surface of any land within
20 one hundred yards thereof without the consent of the
21 owner, or in or upon any private property into or upon
22 which the public is admitted by easement or license, or
23 upon any private property without the consent of the
24 owner, or in or upon any public park or other public prop-
25 erty other than in such place as may be set aside for
26 such purpose by the governing body having charge there-
27 of.

28 If any such materials be thrown, cast, dumped or dis-

29 charged from a motor vehicle in violation of the provi-
30 sions hereof, such action shall be deemed prima facie
31 evidence that the owner and driver of such motor vehicle
32 intended to violate the provisions of this section.

33 The commissioner of motor vehicles, upon registering
34 a motor vehicle or issuing an operator's or chauffeur's
35 license, shall issue to the owner or licensee, as the case
36 may be a copy of this section.

37 The commissioner of highways shall cause appropriate
38 signs to be placed at the state boundary on each primary
39 and secondary road, informing those entering the state of
40 the maximum penalty herein provided for disposing of
41 litter in, upon and near highways and roads in violation of
42 this section.

43 No portion of this section shall be construed to restrict
44 a private owner in the use of his own private property
45 or to prohibit the disposal of materials designated in this
46 section in any manner authorized by law.

47 Any person violating any provision of this section shall
48 be guilty of a misdemeanor, and, upon conviction thereof,
49 shall be fined not less than twenty nor more than five
50 hundred dollars or imprisoned in the county jail not more
51 than six months, or both fined and imprisoned: *Provided,*
52 That, in the discretion of the court, execution of any such
53 sentence may be suspended upon the condition that such
54 person pick up and remove from any area of any public
55 or private highway, road, street or alley, private land or
56 property with prior permission of the owner, or public
57 park or other public property, the area to be specified by
58 the court, any and all litter, garbage, refuse, trash, cans,
59 bottles, papers, ashes, cigarette or cigar butts, carcass of
60 any dead animal or any part thereof, offal or any other
61 offensive or unsightly matter placed, deposited, dumped
62 or thrown thereon contrary to the provisions of this sec-
63 tion by anyone prior to the date of such conviction. If
64 execution of any such sentence is so suspended and the
65 person convicted satisfies the condition upon which ex-
66 ecution was suspended, he shall be discharged with like
67 effect as if the sentence had been fully executed, and if
68 he does not satisfy such condition, then such sentence
69 shall be executed.

ARTICLE 5. WATER RESOURCES.**§20-5-15. Litter along streams, etc.**

1 It shall be unlawful to place, deposit, dump or throw,
2 or cause to be placed, deposited, dumped or thrown,
3 any litter, garbage, refuse, trash, can, bottle, paper, ashes,
4 carcass of any dead animal or any part thereof, offal or any
5 other offensive or unsightly matter into any river, stream,
6 creek, branch, brook, lake or pond, or upon the surface of
7 any land within one hundred yards thereof, or in such loca-
8 tion that high water or normal drainage conditions will
9 cause any such materials or substances to be washed into
10 any river, stream, creek, branch, brook, lake or pond.

11 No portion of this section shall be construed to restrict
12 an owner, renter or lessee in the use of his own private
13 property or rented or leased property or to prohibit the
14 disposal of any industrial and other wastes into waters of
15 this state in a manner consistent with the provisions
16 of article five-a of this chapter. But if any owner, renter
17 or lessee, private or otherwise, knowingly permits any
18 such materials or substances to be placed, deposited,
19 dumped or thrown in such location that high water or
20 normal drainage conditions will cause any such materials
21 or substances to wash into any river, stream, creek, branch,
22 brook, lake or pond, it shall be deemed prima facie
23 evidence that such owner, renter or lessee intended to
24 violate the provisions of this section.

25 In addition to enforcement by the director, the chief
26 of the division of water resources, and the department's
27 chief law-enforcement officer, the provisions of this section
28 may be enforced by all other proper law-enforcement
29 agencies.

30 Any person violating any provision of this section shall
31 be guilty of a misdemeanor, and, upon conviction thereof,
32 shall be fined not less than twenty nor more than five
33 hundred dollars or imprisoned in the county jail not more
34 than six months, or both fined and imprisoned: *Provided,*
35 That, in the discretion of the court, execution of any such
36 sentence may be suspended upon the condition that such
37 person pick up and remove from any area of a bank of
38 any river, stream, creek, branch, brook, lake or pond,
39 or other property with prior permission of the owner,

40 the area to be specified by the court, any and all
41 litter, garbage, refuse, trash, cans, bottles, papers, ashes,
42 carcass of any dead animal or any part thereof, offal or
43 any other offensive or unsightly matter placed, deposited,
44 dumped or thrown contrary to the provisions of this section
45 by anyone prior to the date of such conviction. If
46 execution of any such sentence is so suspended and the
47 person convicted satisfies the condition upon which execution
48 was suspended, he shall be discharged with like
49 effect as if the sentence had been fully executed, and
50 if he does not satisfy such condition, then such sentence
51 shall be executed.

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

H. Darrel Darby
Chairman Senate Committee

Clarence C. C. Fustum
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

Howard A. Basson
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

H. I. Brockett
President of the Senate

Lewis F. Thomas
Speaker House of Delegates

The within approved this the 24th
April, 1973.
day of _____

Arch A. Pearce, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 4/24/73

Time 2:34 p.m.

RECEIVED

MAY 3 9 35 AM '73

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA