WEST VIRGINIA LEGISLATURE
SECOND EXTRAORDINARY SESSION, 1974

ENROLLED
Committee Substitute
for
HOUSE BILL No. 130

(By Mr. [Name] McDonley)

PASSED _________ July 3, 1974

In Effect _________ July 1, 1974 Passage

130

C 641

FILED IN THE OFFICE
EDGAR F. BISSELL, III
SECRETARY OF STATE
This date 7/9/74
AN ACT to amend and reenact article twenty-four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to abandoned motor vehicles, junked motor vehicles, old vehicle tires and abandoned or inoperative household appliances; setting forth certain legislative findings and a declaration of public policy with respect thereto; defining terms used in said article twenty-four; prohibiting the abandonment of a motor vehicle in certain places, the placing or depositing of a junked motor vehicle in certain places, and the placing or depositing of an old vehicle tire or inoperative or abandoned household appliance in certain places; providing criminal offenses and penalties; placing supervision of program for removal of all such items in the department of highways; authorizing rules and regulations; empowering and authorizing enforcement agencies to take all such items into custody and possession and dispose of the same; requiring notice to owner of and lienholders with respect to any abandoned motor vehicle or junked motor vehicle taken into custody and possession; relating to the method, form and contents of such notice; providing for the disposal of all such items taken into custody and possession; relating to the handling, disposition and use of proceeds from the sale of all such items taken into custody and possession, and to licensed salvage yards and demolishers;
establishing the "abandoned and junked property fund" in the state treasury; providing for a portion of certain fees and for other moneys and proceeds to be deposited therein; relating to transfers from such special fund and expenditures thereof; authorizing injunctive relief; and providing a rule of construction and severability clause.

Be it enacted by the Legislature of West Virginia:

That article twenty-four, 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 24. DISPOSAL OF ABANDONED MOTOR VEHICLES, JUNKED MOTOR VEHICLES, OLD VEHICLE TIRES AND ABANDONED OR INOPERATIVE HOUSEHOLD APPLIANCES.

§17-24-1. Legislative findings; statement of policy.

1 The Legislature recognizes and declares that abandoned motor vehicles, junked motor vehicles, old vehicle tires and certain abandoned or inoperative household appliances are and constitute a public nuisance and hazard to both adults and children and therefore are dangerous and constitute a clear and present danger; that said abandoned motor vehicles, junked motor vehicles, old vehicle tires and certain abandoned or inoperative household appliances serve as harborage and breeding places for rodents, mosquitoes, fleas, ticks, mice, rats and other insects, pests and flies injurious to the public health, safety and general welfare; that abandoned motor vehicles and junked motor vehicles serve frequently as temporary or permanent places of human residence unconducive to public health, safety and welfare; that the accumulation and storage of any of such items or parts thereof on private or public property, including but not limited to highways, is hereby found to create a condition tending to reduce the value of private property and to promote blight and deterioration which if permitted to remain will continue to destroy the natural beauty of this state and have adverse economic and social effects; that said abandoned motor vehicles, junked motor vehicles, old vehicle tires and certain abandoned or inoperative household appliances constitute an attractive nuisance creating a hazard to the health and safety of minors;
that said items are nearly always located on public highways, 
rights-of-way, or within sight of such highway rights-of-way 
and on private property within a reasonable proximity thereto, 
and when so located the cost of controlling or abating such 
visual pollution is a cost of maintenance of public highways; 
that said visual pollution elsewhere located may be controlled 
or abated by funds made available for such purpose from 
sources other than those contemplated by section fifty-two, 
article six of the West Virginia constitution; that all such 
visual pollution is a deterrent to economic development; and 
that it is in the public interest and welfare to provide for a 
program to eliminate the unsightly practice of abandoning 
motor vehicles, old vehicle tires and certain abandoned or 
inoperative household appliances. In view of these findings, 
the Legislature declares it to be the public policy of the 
state of West Virginia to eliminate the present danger resulting 
from abandoned motor vehicles, junked motor vehicles, old 
vehicle tires and certain abandoned or inoperative household 
appliances and to eliminate the visual pollution resulting from 
these items, and that in order to provide for the public health, 
safety and welfare, and quality of life, to enact legislation to 
that end by providing expeditious means and methods for 
effecting the disposal of abandoned motor vehicles, junked 
motor vehicles, old vehicle tires and certain abandoned house-
hold appliances. The Legislature further finds and declares 
that the presence of an abandoned motor vehicle, junked 
motor vehicle, old vehicle tire or an abandoned or inoperable 
household appliance, or any part thereof, on private or public 
property, including but not limited to highways, except as 
expressly hereinafter permitted, is a public nuisance injurious 
to the public health, safety and general welfare of the citizens 
of this state which shall be abated as such by the methods 
provided in this article.

§17-24-2. Definitions.

1. Unless the context clearly indicates a different meaning, as 
used in this article:

3. (1) "Abandoned household appliance" means a refrig-
erator, deepfreeze, range, stove, automatic dishwasher, clothes 
washer, clothes dryer, trash compactor, television set, radio,
(2) "Abandoned motor vehicle" means any motor vehicle, or major part thereof, which is inoperative and which has been abandoned on public or private property for any period of time over five days, other than in an enclosed building or in a licensed salvage yard or at the business establishment of a demolisher, or any motor vehicle, or major part thereof, which has remained illegally on public or private property for any period of time over five days, or any motor vehicle, or major part thereof, which has remained on private property without consent of the owner or person in control of the property for any period of time over three days, or any motor vehicle, or major part thereof, which is unattended, discarded, deserted and unlicensed and is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher.

(3) "Demolisher" means any person licensed by the commissioner of the department of highways whose business, to any extent or degree, is to convert a motor vehicle or any part thereof or an inoperative household appliance into processed scrap or scrap metal, or into saleable parts, or otherwise to wreck or dismantle vehicles or appliances.

(4) "Enclosed building" means a structure surrounded by walls or one continuous wall, and having a roof enclosing the entire structure and includes a permanent appendage thereto.

(5) "Enforcement agency" means any of the following or any combination of the following:

(a) Public law-enforcement officers of this state, including conservation officers;

(b) Public law-enforcement officers of any county, city or town within this state; and

(c) The commissioner of the department of highways, his duly authorized agents and employees.

(6) "Inoperative household appliance" means a refrigerat-
tor, deepfreeze, range, stove, automatic dishwasher, clothes
43 washer, clothes dryer, trash compactor, television set, radio,
44 air conditioning unit, commode or bed springs, which by rea-
45 son of mechanical or physical defects can no longer be used
46 for its intended purpose, and which is either not serving a
47 functional purpose or use or is not in an enclosed building, a
48 licensed salvage yard or the actual possession of a demolisher.
49
50 (7) “Junked motor vehicle” means a motor vehicle, or any
51 part thereof (other than an on-premise farm utility vehicle),
52 which (a) is discarded, wrecked, ruined, scrapped or dis-
53 mantled, (b) cannot pass the state inspection required by
54 article sixteen, chapter seventeen-c of this code and (c) is
55 either not serving a functional purpose or use or is not in an
56 enclosed building, a licensed salvage yard or the actual pos-
57 session of a demolisher.
58
59 (8) “Licensed salvage yard” means a salvage yard licensed
60 under article twenty-three of this chapter.
61
62 (9) “Motor vehicle” means a vehicle which is or was self-
63 propelled, including but not limited to automobiles, trucks,
64 buses and motorcycles.
65
66 (10) “Old vehicle tire” means a pneumatic tire in which
67 compressed air is designed to support a load, but which be-
68 cause of wear, damage or defect can no longer safely be used
69 on a motor vehicle and which is either not serving a functional
70 purpose or use or is not in an enclosed building, a licensed
71 salvage yard or the actual possession of a demolisher.
72
73 (11) “Person” includes a natural person, corporation, firm,
74 partnership, association or society, and the plural as well as the
75 singular.

§17-24-3. Abandonment of motor vehicle prohibited; penalty.
1 (a) No person shall, within this state, abandon a motor
2 vehicle upon the right-of-way of any public highway, upon
3 any other public property, or upon any private property which
4 he does not own, lease, rent or otherwise control unless it be
5 at a licensed salvage yard or at the business establishment of a
6 demolisher.
7
8 (b) Any person who violates any provision of subsection
(a) of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned in the county jail not more than six months, or both fined and imprisoned.

§17-24-4. Junked motor vehicles prohibited in certain places; penalty.

No person shall, within this state, place or deposit any junked motor vehicle upon the right-of-way of any public highway or upon any other public property; nor shall any person, within this state, place or deposit any junked motor vehicle upon any private property which he does not own, lease, rent, or otherwise control unless it be at a licensed salvage yard or at the business establishment of a demolisher. Any person who violates any provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned in the county jail for not more than six months, or both fined and imprisoned.

§17-24-5. Old vehicle tires and inoperative or abandoned household appliances in certain places prohibited; penalty.

No person shall, within this state, place or deposit any old vehicle tire or inoperative or abandoned household appliance upon the right-of-way of any public highway or upon any other public property nor abandon the same upon any private property which he does not own, lease, rent or otherwise control, unless it be at a licensed salvage yard or at the business establishment of a demolisher. Any person who violates any provision of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than five hundred dollars or imprisoned in the county jail for not more than six months, or both fined and imprisoned.

§17-24-6. Department of highways to administer funds for removal of abandoned and junked property; rules and regulations authorized; existing or new division; duties of supervisor.

The department of highways shall administer all funds made
available to such department for taking abandoned motor
vehicles, junked motor vehicles, old vehicle tires and inoperative
and abandoned household appliances into custody and pos-
session. The commissioner of the department of highways is
hereby authorized and empowered (a) to promulgate reason-
able rules and regulations deemed necessary to implement
the provisions of this article, and (b) to administer such funds
through an existing division of such department or create a
new division thereof for such purpose, as he deems appropriate.

The supervisor of the responsible division shall also have
the following powers and duties:

(1) To apply and carry out the provisions of this article
and the rules and regulations promulgated hereunder.

(2) To investigate from time to time the operation and
effect of this article and of the rules and regulations pro-
mulgated hereunder and to report his findings and recom-
mendations to the commissioner of the department of high-
ways and to the governor.

§17-24-7. Authority to take possession of abandoned motor ve-
hicles, junked motor vehicles, old vehicle tires, and
inoperative or abandoned household appliances.

Any enforcement agency which has knowledge of or dis-
covers or finds any abandoned motor vehicle, any junked
motor vehicle, old vehicle tire or inoperative or abandoned
household appliance on either public or private property
shall take the same into his custody and possession. For that
purpose, the enforcement agency may employ its own per-
sonnel, equipment and facilities or hire persons, equipment
and facilities for the purpose of removing, preserving and
storing abandoned motor vehicles, junked motor vehicles,
old vehicle tires or inoperative or abandoned household ap-
piances: Provided, That before taking any abandoned motor
vehicle or junked motor vehicle into custody and possession
from private property, the enforcement agency shall give the
private property owner and the owner of said motor vehicle,
if ascertainable, thirty days’ notice by registered or certified
mail that such action will be taken unless the said motor
vehicle is restored to a functional use.
§17-24-8. Notification to motor vehicle owner and lienholders.

(a) The enforcement agency which takes into custody and possession an abandoned motor vehicle or junked motor vehicle shall, within seven days after taking custody and possession thereof, notify the last known registered owner of such motor vehicle and all lienholders of record that such motor vehicle has been taken into custody and possession, such notification to be by registered or certified mail, return receipt requested. The notice shall contain a description of such motor vehicle, including the year, make, model, manufacturer's serial or identification number or any other number which may have been assigned to such motor vehicle by the commissioner of motor vehicles and any distinguishing marks; set forth the location of the facility where such motor vehicle is being held and the location where such motor vehicle was taken into custody and possession; inform the owner and any lienholders of record of their right to reclaim such motor vehicle within ten days after the date notice was received by the owner or lienholders, upon payment of all towing, preservation and storage charges resulting from taking and placing such motor vehicle into custody and possession, and state that the failure of the owner or lienholders of record to exercise their right to reclaim such motor vehicle within such ten-day period shall be deemed a waiver by the owner and all lienholders of record of all right, title and interest in such motor vehicle and of their consent to the sale or disposal of the abandoned motor vehicle or junked motor vehicle at a public auction or to a licensed salvage yard or demolisher.

(b) If the identity of the last registered owner of the abandoned motor vehicle or junked motor vehicle cannot be determined, or if the certificate of registration or certificate of title contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county wherein such motor vehicle was located at the time such enforcement agency took custody and possession thereof, and such notice shall be sufficient to meet all requirements of notice pursuant to this
article. Any notice by publication may contain multiple listings of abandoned motor vehicles and junked motor vehicles. The notice shall be published within seven days after such motor vehicle is taken into custody and possession and shall have the same contents required for a notice pursuant to subsection (a) of this section, except that the ten-day period shall run from the date such notice is published as aforesaid.

(c) The consequences and effect of failure to reclaim an abandoned motor vehicle or junked motor vehicle within the ten-day period after notice is received by registered or certified mail or within ten days after the notice is published in a newspaper as aforesaid shall be set forth in such notice.


(a) If an abandoned motor vehicle or junked motor vehicle is not reclaimed as provided for in section eight of this article, the enforcement agency in possession of the abandoned motor vehicle or junked motor vehicle shall sell it either at a public auction or to a licensed salvage yard or demolisher. The purchaser of such motor vehicle shall take title to such motor vehicle free and clear of all liens and claims of ownership, and shall receive a sales receipt from the enforcement agency which disposed of such motor vehicle. The sales receipt at such sale shall be sufficient title only for purposes of transferring such motor vehicle to a licensed salvage yard or to a demolisher for demolition, wrecking or dismantling, and no further titling of such motor vehicle shall be necessary by either the purchaser at the auction, the licensed salvage yard or the demolisher, who shall be exempt from the payment of any fees and taxes required under article three, chapter seventeen-a of this code: Provided, That the purchaser at the auction must place such motor vehicle in the possession of a licensed salvage yard or demolisher within twenty days from the date he purchased such motor vehicle and the licensed salvage yard or demolisher must demolish, wreck or dismantle such motor vehicle within six months after taking possession of such motor vehicle and if such licensed salvage yard or

demolisher does not, such licensed salvage yard or demolisher shall be required to pay all fees and taxes required under article three, chapter seventeen-a of this code.

(b) When an enforcement agency has in its custody and possession old vehicle tires or inoperative or abandoned household appliances collected in accordance with section seven of this article, it shall sell such property from time to time at public auction or to a licensed salvage yard or demolisher.

§17-24-10. Proceeds from sale of abandoned motor vehicles, junked motor vehicles, old vehicle tires and inoperative or abandoned household appliances.

From the proceeds of any such sale, the enforcement agency which sold the abandoned motor vehicle, junked motor vehicle, old vehicle tire or inoperative or abandoned household appliance shall reimburse itself for any expenses it may have incurred in removing, towing, preserving and storing said property and the expenses of conducting any auction and any notice and publication expenses incurred pursuant to this article.

Any remainder from the proceeds of such sale shall be deposited in the state treasury to be kept and maintained as a special revolving account, hereinafter established and designated as the "Abandoned and Junked Property Fund": Provided, That any remainder from the proceeds of the sale of an abandoned motor vehicle or junked motor vehicle after payment of such expenses shall be held for the last registered owner of such motor vehicle or any lienholder for ninety days, after which time, if no owner or lienholder claims the remainder, it shall be deposited in said special fund.

Any moneys so collected and deposited in said special fund shall be used solely by the department of highways for the payment of auction, towing, removing, preserving, storing, notice and publication costs which results from taking other abandoned motor vehicles, junked motor vehicles, old vehicle tires and inoperative or abandoned household appliances into custody and possession.
§17-24-11. Collection of portion of fee on issuance of certificate of title to new motor vehicles for deposit in abandoned and junked property fund; establishment of such fund; audit.

One dollar of the fee collected by the department of motor vehicles for the issuance of a certificate of title to a new motor vehicle on and after the effective date of this article and through June thirtieth, one thousand nine hundred seventy-five, shall be transmitted by such department of motor vehicles to the state treasurer and deposited by him in the “Abandoned and Junked Property Fund,” hereinafter in this section established: Provided, That no further transmittals shall be made after a total of two hundred thousand dollars has been so collected and deposited in such fund.

There is hereby established a special fund in the state treasury which is hereby designated the “Abandoned and Junked Property Fund.” The state treasurer shall quarterly transfer to the account of the department of highways one fourth of all moneys appropriated by the Legislature for implementation of the provisions of this article, and shall quarterly transfer to such account all fees collected and deposited in such special fund, as aforesaid, to the date of such transfer, and the net proceeds deposited in such special fund, as provided in section ten of this article, to the date of such transfer. The moneys, fees and net proceeds transferred to the department of highways and any federal moneys made available for such purpose shall be used to defray all costs incurred in the removal and disposal of property as authorized in this article. The legislative auditor shall quarterly conduct an audit of the funds available to the department of highways for implementation of the provisions of this article.

§17-24-12. Injunctive relief; additional remedy.

In addition to all other remedies provided for in this article, the attorney general of this state, the prosecuting attorney of any county where any violation of any provision of this article occurs, or any citizen, resident or taxpayer of the county where any violation of any provision of this article occurs, may apply to the circuit court, or the judge thereof in
vacation, of the county where the alleged violation occurred, for an injunction to restrain, prevent or abate the maintenance and storage of abandoned motor vehicles, junked motor vehicles, old vehicle tires or inoperative or abandoned household appliances, in violation of any provision of this article, or the violation of any other provision of this article.

§17-24-13. Construction; severable provisions.

The provisions of this article shall be liberally construed to accomplish the objectives and purposes hereof. If any provision of this article or the application thereof to any person or circumstance be held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect or invalidate other provisions or applications, and to this end, all of the provisions of this article are hereby declared to be severable.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House.
Takes effect July 1, 1974.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 15th day of July, 1974.

Governor
PRESENTED TO THE GOVERNOR

Date  7/12/74
Time  11:05 a.m.