

WEST VIRGINIA LEGISLATURE  
SECOND EXTRAORDINARY SESSION, 1974

— ● —

**ENROLLED**  
Committee Substitute  
For  
HOUSE BILL No. 130

(By Mr. Brenda and Mr. Donley)

— ● —

PASSED July 3, 1974

In Effect July 1, 1974 Passage



C 641

FILED IN THE OFFICE  
MORGAN F. NEASELL III  
SECRETARY OF STATE  
THIS DATE 7/19/74

130

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 130**  
(By MR. BRENDA and MR. DONLEY)

[Passed July 3, 1974; in effect July 1, 1974.]

AN ACT to amend and reenact article twenty-four, chapter seven-teen 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  
2 motor vehicles, junked motor vehicles, old vehicle tires and  
3 certain abandoned or inoperative household appliances are and  
4 constitute a public nuisance and hazard to both adults and  
5 children and therefore are dangerous and constitute a clear  
6 and present danger; that said abandoned motor vehicles,  
7 junked motor vehicles, old vehicle tires and certain abandoned  
8 or inoperative household appliances serve as harborage and  
9 breeding places for rodents, mosquitoes, fleas, ticks, mice,  
10 rats and other insects, pests and flies injurious to the public  
11 health, safety and general welfare; that abandoned motor  
12 vehicles and junked motor vehicles serve frequently as tem-  
13 porary or permanent places of human residence uncondusive  
14 to public health, safety and welfare; that the accumulation and  
15 storage of any of such items or parts thereof on private or  
16 public property, including but not limited to highways, is  
17 hereby found to create a condition tending to reduce the  
18 value of private property and to promote blight and deteriora-  
19 tion which if permitted to remain will continue to destroy  
20 the natural beauty of this state and have adverse economic and  
21 social effects; that said abandoned motor vehicles, junked  
22 motor vehicles, old vehicle tires and certain abandoned or  
23 inoperative household appliances constitute an attractive  
24 nuisance creating a hazard to the health and safety of minors;

25 that said items are nearly always located on public highways,  
 26 rights-of-way, or within sight of such highway rights-of-way  
 27 and on private property within a reasonable proximity thereto,  
 28 and when so located the cost of controlling or abating such  
 29 visual pollution is a cost of maintenance of public highways;  
 30 that said visual pollution elsewhere located may be controlled  
 31 or abated by funds made available for such purpose from  
 32 sources other than those contemplated by section fifty-two,  
 33 article six of the West Virginia constitution; that all such  
 34 visual pollution is a deterrent to economic development; and  
 35 that it is in the public interest and welfare to provide for a  
 36 program to eliminate the unsightly practice of abandoning  
 37 motor vehicles, old vehicle tires and certain abandoned or  
 38 inoperative household appliances. In view of these findings,  
 39 the Legislature declares it to be the public policy of the  
 40 state of West Virginia to eliminate the present danger resulting  
 41 from abandoned motor vehicles, junked motor vehicles, old  
 42 vehicle tires and certain abandoned or inoperative household  
 43 appliances and to eliminate the visual pollution resulting from  
 44 these items, and that in order to provide for the public health,  
 45 safety and welfare, and quality of life, to enact legislation to  
 46 that end by providing expeditious means and methods for  
 47 effecting the disposal of abandoned motor vehicles, junked  
 48 motor vehicles, old vehicle tires and certain abandoned house-  
 49 hold appliances. The Legislature further finds and declares  
 50 that the presence of an abandoned motor vehicle, junked  
 51 motor vehicle, old vehicle tire or an abandoned or inoperative  
 52 household appliance, or any part thereof, on private or public  
 53 property, including but not limited to highways, except as  
 54 expressly hereinafter permitted, is a public nuisance injurious  
 55 to the public health, safety and general welfare of the citizens  
 56 of this state which shall be abated as such by the methods  
 57 provided in this article.

**§17-24-2. Definitions.**

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

3 (1) "Abandoned household appliance" means a refri-  
 4 gerator, deepfreeze, range, stove, automatic dishwasher, clothes  
 5 washer, clothes dryer, trash compactor, television set, radio,

6 air conditioning unit, commode or bed springs, to which no  
7 person claims ownership and which is not in an enclosed  
8 building, a licensed salvage yard or the actual possession of  
9 a demolisher.

10 (2) "Abandoned motor vehicle" means any motor vehicle,  
11 or major part thereof, which is inoperative and which has been  
12 abandoned on public or private property for any period of time  
13 over five days, other than in an enclosed building or in a  
14 licensed salvage yard or at the business establishment of a  
15 demolisher, or any motor vehicle, or major part thereof,  
16 which has remained illegally on public or private property  
17 for any period of time over five days, or any motor vehicle,  
18 or major part thereof, which has remained on private property  
19 without consent of the owner or person in control of the  
20 property for any period of time over three days, or any motor  
21 vehicle, or major part thereof, which is unattended, discarded,  
22 deserted and unlicensed and is not in an enclosed building, a  
23 licensed salvage yard or the actual possession of a demolisher.

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

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

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

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

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

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

42 (6) "Inoperative household appliance" means a refrigera-

43 tor, deepfreeze, range, stove, automatic dishwasher, clothes  
44 washer, clothes dryer, trash compactor, television set, radio,  
45 air conditioning unit, commode or bed springs, which by rea-  
46 son of mechanical or physical defects can no longer be used  
47 for its intended purpose, and which is either not serving a  
48 functional purpose or use or is not in an enclosed building, a  
49 licensed salvage yard or the actual possession of a demolisher.

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 (8) "Licensed salvage yard" means a salvage yard licensed  
59 under article twenty-three of this chapter.

60 (9) "Motor vehicle" means a vehicle which is or was self-  
61 propelled, including but not limited to automobiles, trucks,  
62 buses and motorcycles.

63 (10) "Old vehicle tire" means a pneumatic tire in which  
64 compressed air is designed to support a load, but which be-  
65 cause of wear, damage or defect can no longer safely be used  
66 on a motor vehicle and which is either not serving a functional  
67 purpose or use or is not in an enclosed building, a licensed  
68 salvage yard or the actual possession of a demolisher.

69 (11) "Person" includes a natural person, corporation, firm,  
70 partnership, association or society, and the plural as well as the  
71 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 (b) Any person who violates any provision of subsection

8 (a) of this section shall be guilty of a misdemeanor, and, upon  
9 conviction thereof, shall be fined not less than twenty-five  
10 dollars nor more than five hundred dollars or imprisoned in  
11 the county jail not more than six months, or both fined and  
12 imprisoned.

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

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

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

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

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

1 The department of highways shall administer all funds made

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

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

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

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

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

1 Any enforcement agency which has knowledge of or dis-  
2 covers or finds any abandoned motor vehicle, any junked  
3 motor vehicle, old vehicle tire or inoperative or abandoned  
4 household appliance on either public or private property  
5 shall take the same into his custody and possession. For that  
6 purpose, the enforcement agency may employ its own per-  
7 sonnel, equipment and facilities or hire persons, equipment  
8 and facilities for the purpose of removing, preserving and  
9 storing abandoned motor vehicles, junked motor vehicles,  
10 old vehicle tires or inoperative or abandoned household ap-  
11 pliances: *Provided*, That before taking any abandoned motor  
12 vehicle or junked motor vehicle into custody and possession  
13 from private property, the enforcement agency shall give the  
14 private property owner and the owner of said motor vehicle,  
15 if ascertainable, thirty days' notice by registered or certified  
16 mail that such action will be taken unless the said motor  
17 vehicle is restored to a functional use.



**§17-24-8. Notification to motor vehicle owner and lienholders.**

1 (a) The enforcement agency which takes into custody and  
2 possession an abandoned motor vehicle or junked motor  
3 vehicle shall, within seven days after taking custody and  
4 possession thereof, notify the last known registered owner of  
5 such motor vehicle and all lienholders of record that such  
6 motor vehicle has been taken into custody and possession, such  
7 notification to be by registered or certified mail, return receipt  
8 requested. The notice shall contain a description of such  
9 motor vehicle, including the year, make, model, manufacturer's  
10 serial or identification number or any other number which may  
11 have been assigned to such motor vehicle by the commissioner  
12 of motor vehicles and any distinguishing marks; set forth the  
13 location of the facility where such motor vehicle is being  
14 held and the location where such motor vehicle was taken into  
15 custody and possession; inform the owner and any lienholders  
16 of record of their right to reclaim such motor vehicle within  
17 ten days after the date notice was received by the owner or  
18 lienholders, upon payment of all towing, preservation and stor-  
19 age charges resulting from taking and placing such motor  
20 vehicle into custody and possession, and state that the failure of  
21 the owner or lienholders of record to exercise their right to  
22 reclaim such motor vehicle within such ten-day period shall  
23 be deemed a waiver by the owner and all lienholders of record  
24 of all right, title and interest in such motor vehicle and of  
25 their consent to the sale or disposal of the abandoned motor  
26 vehicle or junked motor vehicle at a public auction or to a  
27 licensed salvage yard or demolisher.

28 (b) If the identity of the last registered owner of the  
29 abandoned motor vehicle or junked motor vehicle cannot be  
30 determined, or if the certificate of registration or certificate  
31 of title contains no address for the owner, or if it is impossible  
32 to determine with reasonable certainty the identity and ad-  
33 dresses of all lienholders, notice shall be published as a Class I  
34 legal advertisement in compliance with the provisions of article  
35 three, chapter fifty-nine of this code, and the publication area  
36 for such publication shall be the county wherein such motor  
37 vehicle was located at the time such enforcement agency took  
38 custody and possession thereof, and such notice shall be  
39 sufficient to meet all requirements of notice pursuant to this

40 article. Any notice by publication may contain multiple listings  
41 of abandoned motor vehicles and junked motor vehicles. The  
42 notice shall be published within seven days after such motor  
43 vehicle is taken into custody and possession and shall have  
44 the same contents required for a notice pursuant to subsection  
45 (a) of this section, except that the ten-day period shall run  
46 from the date such notice is published as aforesaid.

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

**§17-24-9. Disposal of abandoned motor vehicles, junked motor  
vehicles, old vehicle tires and inoperative or aban-  
doned household appliances.**

1 (a) If an abandoned motor vehicle or junked motor ve-  
2 hicle is not reclaimed as provided for in section eight of this  
3 article, the enforcement agency in possession of the abandon-  
4 ed motor vehicle or junked motor vehicle shall sell it either  
5 at a public auction or to a licensed salvage yard or demolisher.  
6 The purchaser of such motor vehicle shall take title to such  
7 motor vehicle free and clear of all liens and claims of owner-  
8 ship, and shall receive a sales receipt from the enforcement  
9 agency which disposed of such motor vehicle. The sales re-  
10 ceipt at such sale shall be sufficient title only for purposes of  
11 transferring such motor vehicle to a licensed salvage yard or  
12 to a demolisher for demolition, wrecking or dismantling, and  
13 no further titling of such motor vehicle shall be necessary by  
14 either the purchaser at the auction, the licensed salvage yard  
15 or the demolisher, who shall be exempt from the payment of  
16 any fees and taxes required under article three, chapter seven-  
17 teen-a of this code: *Provided*, That the purchaser at the auc-  
18 tion must place such motor vehicle in the possession of a  
19 licensed salvage yard or demolisher within twenty days from  
20 the date he purchased such motor vehicle and the licensed  
21 salvage yard or demolisher must demolish, wreck or dismantle  
22 such motor vehicle within six months after taking possession  
23 of such motor vehicle and if such licensed salvage yard or

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

27 (b) When an enforcement agency has in its custody and  
28 possession old vehicle tires or inoperative or abandoned house-  
29 hold appliances collected in accordance with section seven of  
30 this article, it shall sell such property from time to time at  
31 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.**

1 From the proceeds of any such sale, the enforcement agency  
2 which sold the abandoned motor vehicle, junked motor vehicle,  
3 old vehicle tire or inoperative or abandoned household ap-  
4 pliance shall reimburse itself for any expenses it may have  
5 incurred in removing, towing, preserving and storing said  
6 property and the expenses of conducting any auction and any  
7 notice and publication expenses incurred pursuant to this  
8 article.

9 Any remainder from the proceeds of such sale shall be de-  
10 posited in the state treasury to be kept and maintained as a  
11 special revolving account, hereinafter established and desig-  
12 nated as the "Abandoned and Junked Property Fund": *Pro-*  
13 *vided*, That any remainder from the proceeds of the sale  
14 of an abandoned motor vehicle or junked motor vehicle after  
15 payment of such expenses shall be held for the last registered  
16 owner of such motor vehicle or any lienholder for ninety days,  
17 after which time, if no owner or lienholder claims the remain-  
18 der, it shall be deposited in said special fund.

19 Any moneys so collected and deposited in said special fund  
20 shall be used solely by the department of highways for the  
21 payment of auction, towing, removing, preserving, storing,  
22 notice and publication costs which results from taking other  
23 abandoned motor vehicles, junked motor vehicles, old vehicle  
24 tires and inoperative or abandoned household appliances into  
25 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.**

1 One dollar of the fee collected by the department of motor  
2 vehicles for the issuance of a certificate of title to a new motor  
3 vehicle on and after the effective date of this article and  
4 through June thirtieth, one thousand nine hundred seventy-five,  
5 shall be transmitted by such department of motor vehicles to  
6 the state treasurer and deposited by him in the "Abandoned  
7 and Junked Property Fund," hereinafter in this section estab-  
8 lished: *Provided*, That no further transmittals shall be made  
9 after a total of two hundred thousand dollars has been so col-  
10 lected and deposited in such fund.

11 There is hereby established a special fund in the state  
12 treasury which is hereby designated the "Abandoned and Junk-  
13 ed Property Fund." The state treasurer shall quarterly trans-  
14 fer to the account of the department of highways one fourth  
15 of all moneys appropriated by the Legislature for implemen-  
16 tation of the provisions of this article, and shall quarterly  
17 transfer to such account all fees collected and deposited in  
18 such special fund, as aforesaid, to the date of such transfer,  
19 and the net proceeds deposited in such special fund, as pro-  
20 vided in section ten of this article, to the date of such trans-  
21 fer. The moneys, fees and net proceeds transferred to the de-  
22 partment of highways and any federal moneys made available  
23 for such purpose shall be used to defray all costs incurred  
24 in the removal and disposal of property as authorized in this  
25 article. The legislative auditor shall quarterly conduct an audit  
26 of the funds available to the department of highways for im-  
27 plementation of the provisions of this article.

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

1 In addition to all other remedies provided for in this  
2 article, the attorney general of this state, the prosecuting at-  
3 torney of any county where any violation of any provision of  
4 this article occurs, or any citizen, resident or taxpayer of the  
5 county where any violation of any provision of this article  
6 occurs, may apply to the circuit court, or the judge thereof in

7 vacation, of the county where the alleged violation occurred,  
8 for an injunction to restrain, prevent or abate the maintenance  
9 and storage of abandoned motor vehicles, junked motor ve-  
10 hicles, old vehicle tires or inoperative or abandoned household  
11 appliances, in violation of any provision of this article, or the  
12 violation of any other provision of this article.

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

1 The provisions of this article shall be liberally construed to  
2 accomplish the objectives and purposes hereof. If any pro-  
3 vision of this article or the application thereof to any person  
4 or circumstance be held invalid or unconstitutional by any  
5 court of competent jurisdiction, such invalidity or unconsti-  
6 tutionality shall not affect or invalidate other provisions or  
7 applications, and to this end, all of the provisions of this ar-  
8 ticle are hereby declared to be severable.

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

D. David Darby  
Chairman Senate Committee

Clarence C. Chastain, Jr.  
Chairman House Committee

Originated in the House.

Takes effect July 1, 1974.

Howard W. Carson  
Clerk of the Senate

C. Blankenship  
Clerk of the House of Delegates

W. J. Bratherton, Jr.  
President of the Senate

Lewis G. McManus  
Speaker House of Delegates

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

Archie A. Shaver, Jr.  
Governor

PRESENTED TO THE  
GOVERNOR

Date 7/12/74

Time 11:05 a.m.