

No. 26

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1985

RECEIVED  
APR 13 1985 11:30 AM  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

ENROLLED

*Committee Substitute for*  
SENATE BILL NO. 26

(By Mr. Halliday, et al.)

PASSED April 13 1985

In Effect ninety days from Passage



# ENROLLED

COMMITTEE SUBSTITUTE

FOR

## Senate Bill No. 26

(MR. HOLLIDAY, MR. WHITLOW, MR. CHAFIN, MR. TUCKER, MS. LUCHT, MR. STACY, MR. COOK, MR. BOETTNER AND MR. JARRELL, *original sponsors*)

---

(Originating in the Committee on the Judiciary.)

---

[Passed April 13, 1985; in effect ninety days from passage.]

---

AN ACT to amend article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto three new sections, designated sections twenty-four, twenty-five and twenty-six, all relating to creation of the West Virginia litter control program; definitions; additional duties of the director of the department of natural resources in the administration of the West Virginia litter control program; matching grants to localities for litter control programs and regulations relating thereto; lawful disposal of litter and criminal penalties therefor; costs for cleanup, investigation and prosecution to be assessed against violators and transmitted to litter control fund account in state treasury; notice of penalties for unlawful disposal of litter; mandatory placement and maintenance of litter receptacles; penalties for failure to place and maintain litter receptacles upon two warnings; construction of section; and duty of law-enforcement officers to enforce against violations.

*Be it enacted by the Legislature of West Virginia:*

That article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto three new sections, designated sections twenty-four, twenty-five, and twenty-six, all to read as follows:

**ARTICLE 7. LAW ENFORCEMENT, PROCEDURES AND PENALTIES; MOTORBOATING; WEST VIRGINIA LITTER CONTROL PROGRAM.**

**PART III. WEST VIRGINIA LITTER CONTROL PROGRAM.**

**§20-7-24. Definitions.**

1 As used in sections twenty-five and twenty-six of this  
2 article, unless the context requires a different meaning:

3 "Litter" means all waste material including, but not  
4 limited to, any garbage, refuse, trash, disposable package,  
5 container, can, bottle, paper, ashes, cigarette or cigar butt,  
6 carcass of any dead animal or any part thereof, or any  
7 other offensive or unsightly matter, but not including the  
8 wastes of primary processes of mining, logging, sawmill-  
9 ing, farming or manufacturing.

10 "Litter receptacle" means those containers suitable for  
11 the depositing of litter at each respective public area  
12 designated by the director's regulations promulgated pur-  
13 suant to subdivision eight, subsection (a), section twen-  
14 ty-five of this article.

15 "Public area" means an area outside of a municipality,  
16 including public road and highway rights-of-way, parks  
17 and recreation areas owned or controlled by this state or  
18 any county thereof, or an area held open for unrestricted  
19 access by the general public.

**§20-7-25. West Virginia litter control programs; additional duties of director; grants to counties and municipalities and regulations relating thereto.**

1 (a) In addition to all other powers, duties and respon-  
2 sibilities granted and assigned to the director of the de-  
3 partment of natural resources in this chapter and else-  
4 where by law, the director is hereby authorized and

5 empowered, in the administration of the West Virginia  
6 litter control program created by this section to;

7 (1) Coordinate all industry and business organizations  
8 seeking to aid in the litter control effort;

9 (2) Cooperate with all local governments to accomplish  
10 coordination of local litter control efforts;

11 (3) Encourage, organize and coordinate all voluntary  
12 litter control campaigns, including citizen litter watch  
13 programs, seeking to focus the attention of the public on  
14 the litter control programs of the state and local govern-  
15 ments;

16 (4) Recommend to local governing bodies that they  
17 adopt ordinances similar to the provisions of section  
18 eleven-a of this article;

19 (5) Investigate the methods and success of techniques  
20 of litter control, removal and disposal utilized in other  
21 states, and develop, encourage, organize and coordinate  
22 local litter control programs funded by grants awarded  
23 pursuant to subsection (b) of this section utilizing such  
24 successful techniques;

25 (6) Investigate the availability of, and apply for, funds  
26 available from any and all private or public sources to be  
27 used in the litter control program created by this section;

28 (7) Promulgate regulations pursuant to article three,  
29 chapter twenty-nine-a of this code establishing criteria  
30 for the awarding of direct and/or matching grants for  
31 the study of available research and development in the  
32 fields of litter control, removal and disposal, methods for  
33 the implementation of such research and development,  
34 and the development of public educational programs con-  
35 cerning litter control;

36 (8) Promulgate regulations pursuant to article three,  
37 chapter twenty-nine-a of this code designating public  
38 areas where litter receptacles shall be placed in accord-  
39 ance with subsection (d), section twenty-six of this ar-  
40 ticle. The director is further authorized to specify within  
41 such regulations the minimum number of litter recep-  
42 tacles required to be placed at each designated public  
43 area; and

44 (9) Expend for the purposes set forth in this section  
45 any and all moneys credited to the special revenue fund  
46 known as the "litter control fund" by the state treasurer  
47 pursuant to subsection (b), section twenty-six of this  
48 article.

49 (b) Commencing on the first day of July, one thousand  
50 nine hundred eighty-six, the director shall expend an-  
51 nually at least fifty percent of the moneys credited to the  
52 "litter control fund" in the previous fiscal year for match-  
53 ing grants to counties and municipalities for the initiation  
54 and administration of local litter control programs. The  
55 director may promulgate regulations pursuant to article  
56 three, chapter twenty-nine-a of this code establishing  
57 criteria for the awarding of matching grants.

58 (c) The director of the department of natural resources  
59 in cooperation with the commissioner of highways, the  
60 department of public safety, the United States forestry  
61 service, and other local, state and federal law-enforce-  
62 ment agencies, shall be responsible for the administration  
63 and enforcement of all laws and regulations relating to  
64 the maintenance of cleanliness and improvement of ap-  
65 pearances on and along highways, roads, streets, alleys  
66 and other public areas of the state and shall make recom-  
67 mendations to the director from time to time concerning  
68 means and methods of accomplishing litter control con-  
69 sistent with the provisions of this chapter.

**§20-7-26. Unlawful disposal of litter; penalties; evidence; no-  
tice of violations; litter receptacle placement;  
penalties; duty to enforce violations.**

1 (a) Any person who places, deposits, dumps, or throws  
2 or causes to be placed, deposited, dumped or thrown any  
3 litter as defined in section two, article four of this chapter,  
4 in or upon any public or private highway, road, street or  
5 alley, or upon any private property without the consent  
6 of the owner, or in or upon any public park or other  
7 public property other than in such place as may be set  
8 aside for such purpose by the governing body having  
9 charge thereof, is guilty of a misdemeanor, and, upon con-  
10 viction thereof, shall be fined not less than fifty dollars

11 nor more than one thousand dollars, or imprisoned in the  
12 county jail not more than sixty days, or sentenced to  
13 remove litter from any public highway, road, street, alley,  
14 or any other public park or property as designated by  
15 the court for a total of not less than thirty hours under  
16 the supervision of the county supervisor of the depart-  
17 ment of highways, or his designated agent.

18 If any litter be thrown or cast from a motor vehicle,  
19 such action is prima facie evidence that the driver of such  
20 motor vehicle intended to violate the provisions of this  
21 section. If any litter be dumped or discharged from a  
22 motor vehicle, such action is prima facie evidence that  
23 the owner and driver of such motor vehicle intended to  
24 violate the provisions of this section.

25 (b) Every person who is convicted of or pleads guilty  
26 to disposing of litter in violation of subsection (a) of this  
27 section shall pay the sum of fifty dollars as costs for clean-  
28 up, investigation and prosecution in such case, in addition  
29 to any other court costs that the court is otherwise re-  
30 quired by law to impose upon such convicted person. The  
31 clerk of the circuit court, magistrate court or municipal  
32 court wherein such additional costs are imposed shall, on  
33 or before the last day of each month, transmit all such  
34 costs received under this subsection to the state treasurer  
35 for deposit in the state treasury to the credit of a special  
36 revenue fund to be known as the "litter control fund"  
37 which is hereby created. All moneys collected and re-  
38 ceived under this subsection and paid into the state  
39 treasury and credited to the "litter control fund" in the  
40 manner prescribed by section two, article two, chapter  
41 twelve of this code, shall be kept and maintained for  
42 expenditure by the director for the specific purposes of  
43 section twenty-five of this article, and shall not be treated  
44 by the state auditor and treasurer as part of the general  
45 revenue of the state. At the end of each fiscal year, any  
46 unexpended balance of the "litter control fund" shall not  
47 be transferred to the general revenue fund, but shall  
48 remain in the "litter control fund".

49 (c) The commissioner of motor vehicles, upon register-  
50 ing a motor vehicle or issuing an operator's or chauffeur's

51 license, shall issue to the owner or licensee, as the case  
52 may be, a copy of subsection (a) of this section.

53 The commissioner of highways may cause appropriate  
54 signs to be placed at the state boundry on each primary  
55 and secondary road, informing those entering the state  
56 of the maximum penalty provided for disposing of litter  
57 in violation of subsection (a) of this section.

58 (d) Any person who owns, operates or otherwise con-  
59 trols any public area as may be designated by the director  
60 by regulation promulgated pursuant to subdivision eight,  
61 subsection (a), section tewnty-five of this article, shall  
62 procure and place litter receptacles at his own expense  
63 upon his premises and shall remove and dispose of litter  
64 collected in such litter receptacles. After receiving two  
65 written warnings from any law-enforcement officer or  
66 officers to comply with this subsection or the said regula-  
67 tions of the director, any person who fails to place and  
68 maintain such litter receptacles upon his premises in vio-  
69 lation of this subsection or the regulations of the director  
70 shall be fined fifteen dollars per day of such violation.

71 (e) No portion of this section shall be construed to  
72 restrict a private owner in the use of his own private  
73 property or to prohibit the disposal of litter in any man-  
74 ner otherwise authorized by law.

75 (f) Any law-enforcement officer who shall observe a  
76 person violating the provisions of this section shall have a  
77 mandatory duty to arrest or otherwise prosecute the vio-  
78 lator to the limits provided herein. The West Virginia  
79 department of highways shall investigate and cause to be  
80 prosecuted violations of this section occurring upon the  
81 highways of the state as the term "highways" is defined  
82 in chapter seventeen of this code.

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

*Harrell E. Ashme*  
Chairman Senate Committee

*Floyd Fullen*  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Todd C. Smith*  
Clerk of the Senate

*Donald L. Hoff*  
Clerk of the House of Delegates

*Don Toussaint*  
President of the Senate

*Joseph P. Allright*  
Speaker House of Delegates

The within *approval* this the *2<sup>nd</sup>*  
day of *May*, 1985.

*Aruba Prange Jr.*  
Governor



PRESENTED TO THE

GOVERNOR

Date

4/30/85

Time

6:10 p.m.