WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

ENROLLED

Committee Substitute for
SENATE BILL NO. 26

(By Mr. Hillisby, et al.)

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.

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

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

"Litter receptacle" means those containers suitable for the depositing of litter at each respective public area designated by the director's regulations promulgated pursuant to subdivision eight, subsection (a), section twenty-five of this article.

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

(a) In addition to all other powers, duties and responsibilities granted and assigned to the director of the department of natural resources in this chapter and elsewhere by law, the director is hereby authorized and
em empowered, in the administration of the West Virginia litter control program created by this section to;

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

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

(3) Encourage, organize and coordinate all voluntary litter control campaigns, including citizen litter watch programs, seeking to focus the attention of the public on the litter control programs of the state and local governments;

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

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

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

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

(8) Promulgate regulations pursuant to article three, chapter twenty-nine-a of this code designating public areas where litter receptacles shall be placed in accordance with subsection (d), section twenty-six of this article. The director is further authorized to specify within such regulations the minimum number of litter receptacles required to be placed at each designated public area; and
(9) Expend for the purposes set forth in this section any and all moneys credited to the special revenue fund known as the "litter control fund" by the state treasurer pursuant to subsection (b), section twenty-six of this article.

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

(c) The director of the department of natural resources in cooperation with the commissioner of highways, the department of public safety, the United States forestry service, and other local, state and federal law-enforcement agencies, shall be responsible for the administration and enforcement of all laws and regulations relating to the maintenance of cleanliness and improvement of appearances on and along highways, roads, streets, alleys and other public areas of the state and shall make recommendations to the director from time to time concerning means and methods of accomplishing litter control consistent with the provisions of this chapter.

§20-7-26. Unlawful disposal of litter; penalties; evidence; notice of violations; litter receptacle placement; penalties; duty to enforce violations.

1 (a) Any person who places, deposits, dumps, or throws or causes to be placed, deposited, dumped or thrown any litter as defined in section two, article four of this chapter, in or upon any public or private highway, road, street or alley, or upon any private property without the consent of the owner, or in or upon any public park or other public property other than in such place as may be set aside for such purpose by the governing body having charge thereof, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than fifty dollars
nor more than one thousand dollars, or imprisoned in the
county jail not more than sixty days, or sentenced to
remove litter from any public highway, road, street, alley,
or any other public park or property as designated by
the court for a total of not less than thirty hours under
the supervision of the county supervisor of the depart-
ment of highways, or his designated agent.

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

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

(c) The commissioner of motor vehicles, upon register-
ing a motor vehicle or issuing an operator's or chauffeur's
license, shall issue to the owner or licensee, as the case
may be, a copy of subsection (a) of this section.

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

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

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

(f) Any law-enforcement officer who shall observe a
person violating the provisions of this section shall have a
mandatory duty to arrest or otherwise prosecute the vi-o-
lator to the limits provided herein. The West Virginia
department of highways shall investigate and cause to be
prosecuted violations of this section occurring upon the
highways of the state as the term ""highways"" is defined
in chapter seventeen of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the __ day of ____________, 1985.

Governor
PRESENTED TO THE
GOVERNOR
Date 4/30/85
Time 6:10 p.m.