

H/B 2222

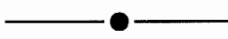
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2001 APR -5 P 4: 18

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2001



# SECOND ENROLLMENT

COMMITTEE SUBSTITUTE  
FOR  
**House Bill No. 2222**

(By Delegates Campbell and Mahan)



Passed March 28, 2001

In Effect Ninety Days from Passage

**FILED**

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OFFICE WEST VIRGINIA  
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**SECOND ENROLLMENT**

COMMITTEE SUBSTITUTE

FOR

**H. B. 2222**

(BY DELEGATES CAMPBELL AND MAHAN)

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[Passed March 28, 2001; in effect ninety days from passage.]

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AN ACT to repeal section twenty-eight, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section three-ff, article one, chapter seven of said code; to amend article fourteen, chapter seventeen-c of said code by adding thereto a new section, designated section fourteen; to amend and reenact sections twenty-four and twenty-six, article seven, chapter twenty of said code; and to amend and reenact section twenty-three, article four, chapter twenty-two-c, all relating to litter generally; authorizing county commissions to hire litter control officers; making it a crime to throw litter from a motor vehicle or other conveyance; assessing three points against driver's license; creating presumption of responsibility when more than one person is in vehicle; requiring division of motor vehicles promulgate a rule; defining terms; making it a misdemeanor to litter on public or private property or waters of the state; creating fines and community

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service penalties for certain violations; establishing jail sentence for certain violations; providing that landowners, renters and lessees are not restricted in lawful use of property; creating exceptions for permitted industrial discharges; prohibiting litter near waters of the state and providing exception; providing for verification of community service litter cleanup; establishing presumption of intent if litter is thrown from motor vehicle, boat, airplane or other conveyance; providing for enforcement; creating presumption of ownership if identifying information found in litter; creating exemption for logos and trademarks; increasing civil penalties for litter conviction; directing moneys from civil penalties to go to litter control fund and county and regional solid waste authorities; requiring solid waste authorities expend funds for litter prevention, cleanup and enforcement; requiring the division of highways to erect signs throughout the state setting forth the penalties for littering; requiring the division of motor vehicles to provide summary of litter law when registering a motor vehicle or issuing an operator's or chauffeur's license; authorizing certain state agencies and political subdivisions to place litter receptacles in public areas and establishing penalties for failure to do so; and clarifying that solid waste authorities may expend any available funds to operate solid waste facilities, litter control programs and recycling programs.

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

That section twenty-eight, article seven, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section three-ff, article one, chapter seven of said code be amended and reenacted; that article fourteen, chapter seventeen-c of said code be amended by adding thereto a new section, designated section fourteen; that sections twenty-four and twenty-six, article seven, chapter twenty of said code be amended and reenacted; and to amend and reenact section twenty-three, article four, chapter twenty-two-c, all to read as follows:

**CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.****ARTICLE 1. COUNTY COMMISSIONS GENERALLY.**

**§7-1-3ff. Authority of county commission to enact ordinances regulating the repair, alteration, improvement, vacating, closing, removal or demolition of unsafe or unsanitary structures and the clearance and removal of refuse, debris, overgrown vegetation, toxic spills or toxic seepage on private land; authority to create enforcement agency; procedure for complaints; promulgation of rules governing investigation and hearing of complaints; remedies for failure to comply with commission-ordered repairs or alterations; lien and sale of land to recover costs; entry on land to perform repairs and alterations or to satisfy lien; receipt of grants and subsidies.**

1 (a) Plenary power and authority are hereby conferred upon  
2 every county commission to adopt ordinances regulating the  
3 repair, alteration or improvement, or the vacating and closing  
4 or removal or demolition, or any combination thereof, of any  
5 dwellings or other buildings, except for buildings utilized for  
6 farm purposes on land actually being used for farming, unfit for  
7 human habitation due to dilapidation, defects increasing the  
8 hazard of fire, accidents or other calamities, lack of ventilation,  
9 light or sanitary facilities or any other conditions prevailing in  
10 any dwelling or building, whether used for human habitation or  
11 not, which would cause the dwellings or other buildings to be  
12 unsafe, unsanitary, dangerous or detrimental to the public safety  
13 or welfare, whether the result of natural or manmade force or  
14 effect.

15 (b) Plenary power and authority are hereby conferred upon  
16 every county commission to adopt ordinances regulating the  
17 removal and clean up of any accumulation of refuse or debris,  
18 overgrown vegetation or toxic spillage or toxic seepage located

19 on private lands which is determined to be unsafe, unsanitary,  
20 dangerous or detrimental to the public safety or welfare whether  
21 the result of natural or manmade force or effect.

22 (c) The county commission in formally adopting ordinances  
23 shall designate an enforcement agency, which shall consist of  
24 the county engineer (or other technically qualified county  
25 employee or consulting engineer), county health officer or his  
26 or her designee, a fire chief from a county fire company, the  
27 county litter control officer, if the commission chooses to hire  
28 one, and two members at large selected by the county commis-  
29 sion to serve two-year terms. The county sheriff shall serve as  
30 an ex officio member of the enforcement agency and the county  
31 officer charged with enforcing the orders of the county commis-  
32 sion under this section.

33 (d) Any ordinance adopted pursuant to the provisions of  
34 this section shall provide fair and equitable rules of procedure  
35 and any other standards considered necessary to guide the  
36 enforcement agency, or its agents, in the investigation of  
37 dwelling or building conditions, accumulation of refuse or  
38 debris, overgrown vegetation or toxic spillage or toxic seepage,  
39 and shall provide for fair and equitable rules of procedure for  
40 instituting and conducting hearings in the matters before the  
41 county commission. Any entrance upon premises for the  
42 purpose of making examinations shall be made in a manner as  
43 to cause the least possible inconvenience to the persons in  
44 possession.

45 (e) Any county commission adopting ordinances authorized  
46 by this section shall hear and determine complaints of the  
47 enforcement agency. Complaints shall be initiated by citation  
48 issued by the county litter control officer or petition of the  
49 county engineer (or other technically qualified county employee  
50 or consulting engineer) on behalf of and at the direction of the  
51 enforcement agency, but only after that agency has investigated

52 and determined that any dwelling, building, accumulation of  
53 refuse or debris, overgrown vegetation or toxic spillage or toxic  
54 seepage is unsafe, unsanitary, dangerous or detrimental to the  
55 public safety or welfare and should be repaired, altered,  
56 improved, vacated, removed, closed, cleaned or demolished.  
57 The county commission shall cause the owner or owners of the  
58 private land in question to be served with a copy of the com-  
59 plaint. Service shall be accomplished in the manner provided in  
60 rule four of the West Virginia rules of civil procedure. The  
61 complaint shall state the findings and recommendations of the  
62 enforcement agency and that unless the owner or owners of the  
63 property file with the clerk of the county commission a written  
64 request for a hearing within ten days of receipt of the complaint,  
65 an order will be issued by the county commission implementing  
66 the recommendations of the enforcement agency. If the owner  
67 or owners of the property file a request for a hearing, the county  
68 commission shall issue an order setting this matter down for  
69 hearing within twenty days. Hearings shall be recorded by  
70 electronic device or by court reporter. The West Virginia rules  
71 of evidence do not apply to the proceedings, but each party has  
72 the right to present evidence and examine and cross examine all  
73 witnesses. The enforcement agency has the burden of proving  
74 its allegation by a preponderance of the evidence and has the  
75 duty to go forward with the evidence. At the conclusion of the  
76 hearing the county commission shall make findings of fact,  
77 determinations and conclusions of law as to whether the  
78 dwelling or building: Is unfit for human habitation due to  
79 dilapidation; has defects that increase the hazard of fire,  
80 accidents or other calamities, lacks ventilation, light or sanitary  
81 facilities; or any other conditions prevailing in the dwelling or  
82 building, whether used for human habitation or not, and  
83 whether the result of natural or manmade force or effect, which  
84 would cause such dwelling or other building to be unsafe,  
85 unsanitary, dangerous or detrimental to the public safety or  
86 welfare; or whether there is an accumulation of refuse or debris;

87 overgrown vegetation; toxic spillage or toxic seepage on private  
88 lands which is determined to be unsafe, unsanitary, dangerous  
89 or detrimental to the public safety or welfare, whether the result  
90 of natural or manmade force or effect. The county commission  
91 has authority to order the owner or owners thereof to repair,  
92 alter, improve, vacate, remove, close, clean up or demolish the  
93 dwelling or building in question or to remove or clean up any  
94 accumulation of refuse or debris, overgrown vegetation or toxic  
95 spillage or toxic seepage within a reasonable time and to  
96 impose daily civil monetary penalties on the owner or owners  
97 who fail to obey an order. Appeals from the county commission  
98 to the circuit court shall be in accordance with the provisions of  
99 article three, chapter fifty-eight of this code.

100 (f) Upon the failure of the owner or owners of the private  
101 land to perform the ordered duties and obligations as set forth  
102 in the order of the county commission, the county commission  
103 may advertise for and seek contractors to make the ordered  
104 repairs, alterations or improvements, or the ordered demolition,  
105 removal or clean up. The county commission may enter into  
106 any contract with any contractor to accomplish the ordered  
107 repairs, alterations or improvements, or the ordered demolition,  
108 removal or clean up.

109 (g) A civil proceeding may be brought in circuit court by  
110 the county commission against the owner or owners of the  
111 private land which is the subject matter of the order of the  
112 county commission to subject the private land in question to a  
113 lien for the amount of the contractor's costs in making these  
114 ordered repairs, alterations or improvements, or ordered  
115 demolition, removal or clean up together with any daily civil  
116 monetary penalty imposed and reasonable attorney fees and  
117 court costs and to order and decree the sale of the private land  
118 in question to satisfy the lien, and to order and decree that the  
119 contractor may enter upon the private land in question at any  
120 and all times necessary to make improvements, or ordered

121 repairs, alterations or improvements, or ordered demolition,  
122 removal or clean up. In addition, the county commission shall  
123 have the authority to institute a civil action in a court of  
124 competent jurisdiction against the landowner or other responsi-  
125 ble party for all costs incurred by the county with respect to the  
126 property and for reasonable attorney fees and court costs  
127 incurred in the prosecution of the action.

128 (h) County commissions have the power and authority to  
129 receive and accept grants, subsidies, donations and services in  
130 kind consistent with the objectives of this section.

## **CHAPTER 17C. TRAFFIC REGULATIONS AND LAWS OF THE ROAD.**

### **ARTICLE 14. MISCELLANEOUS RULES.**

#### **§17C-14-14. Unlawful to litter from motor vehicle; penalty; rule making.**

1 (a) It is unlawful for any driver or passenger of a motor  
2 vehicle or other conveyance to place, deposit, dump, throw or  
3 cause to be placed, deposited, dumped or thrown, any litter  
4 from a motor vehicle or other conveyance in or upon any public  
5 or private highway, road, street or alley; any private property;  
6 any public property; or the waters of the state or within one  
7 hundred feet of the waters of this state, except in a proper litter  
8 or other solid waste receptacle.

9 (b) For purposes of this section, "litter" means all waste  
10 material including, but not limited to, any garbage, refuse,  
11 trash, disposable package, container, can, bottle, paper, ashes,  
12 cigarette or cigar butt, carcass of any dead animal or any part  
13 thereof, or any other offensive or unsightly matter, but not  
14 including the wastes of primary processes of mining, logging,  
15 sawmilling, farming or manufacturing.



16 (c) In addition to any penalty imposed for littering under  
17 the provisions of article seven, chapter twenty of this code, any  
18 driver of a motor vehicle or other conveyance convicted of  
19 violating this section shall have three points assessed against his  
20 or her driver's license.

21 (d) The commissioner shall assess points against the  
22 driver's license of any driver of a motor vehicle or other  
23 conveyance found guilty of violating this section upon receiv-  
24 ing notice from a circuit clerk, magistrate court or municipal  
25 court of this state of the conviction. Circuit clerks, magistrate  
26 courts and municipal courts of this state shall promptly notify  
27 the commissioner of the convictions.

28 (e) When there is more than one occupant in a motor  
29 vehicle or other conveyance and it can not be determined which  
30 occupant is responsible for violating this section, the driver  
31 shall be presumed to be responsible for the violation.

32 (f) The commissioner of the division of motor vehicles  
33 shall propose or amend legislative rules for promulgation, in  
34 accordance with the provisions of article three, chapter twenty-  
35 nine-a of this code, to effectuate the purposes of this section.

## **CHAPTER 20. NATURAL RESOURCES.**

### **ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.**

#### **§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 (a) "Collected for commercial purposes" means taking solid  
4 waste for disposal from any person for remuneration regardless  
5 of whether or not the person taking the solid waste is a common  
6 carrier by motor vehicle governed by article two, chapter  
7 twenty-four-a of this code.

8 (b) "Court" means any circuit, magistrate or municipal  
9 court.

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

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

21 (e) "Public area" means an area outside of a municipality,  
22 including public road and highway rights-of-way, parks and  
23 recreation areas owned or controlled by this state or any county  
24 of this state, or an area held open for unrestricted access by the  
25 general public.

26 (f) "Waters of the state" means generally, without limita-  
27 tion, natural or artificial lakes, rivers, streams, creeks, branches,  
28 brooks, ponds, impounding reservoirs, springs, wells, water-  
29 courses and wetlands.

**§20-7-26. Unlawful disposal of litter; civil and criminal penalty;  
litter control fund; evidence; notice violations; litter  
receptacle placement; penalty; duty to enforce  
violations.**

1 (a) (1) No person shall place, deposit, dump, throw or cause  
2 to be placed, deposited, dumped or thrown any litter as defined  
3 in section twenty-four of this article, in or upon any public or  
4 private highway, road, street or alley; any private property; any  
5 public property; or the waters of the state or within one hundred

6 feet of the waters of this state, except in a proper litter or other  
7 solid waste receptacle.

8 (2) It is unlawful for any person to place, deposit, dump,  
9 throw or cause to be placed, deposited, dumped or thrown any  
10 litter from a motor vehicle or other conveyance or to perform  
11 any act which constitutes a violation of the motor vehicle laws  
12 contained in section fourteen, article fourteen, chapter  
13 seventeen-c of this code.

14 (3) If any litter is placed, deposited, dumped, discharged,  
15 thrown or caused to be placed, deposited, dumped or thrown  
16 from a motor vehicle, boat, airplane or other conveyance, it is  
17 prima facie evidence that the owner or the operator of the motor  
18 vehicle, boat, airplane or other conveyance intended to violate  
19 the provisions of this section.

20 (4) Any person who violates the provisions of this section  
21 by placing, depositing, dumping or throwing or causing to be  
22 placed, deposited, dumped or thrown any litter, not collected for  
23 commercial purposes, in an amount not exceeding one hundred  
24 pounds in weight or twenty-seven cubic feet in size, is guilty of  
25 a misdemeanor. Upon conviction, he or she is subject to a fine  
26 of not less than fifty dollars nor more than one thousand dollars,  
27 or in the discretion of the court, sentenced to perform commu-  
28 nity service by cleaning up litter from any public highway,  
29 road, street, alley or any other public park or public property, or  
30 waters of the state, as designated by the court, for not less than  
31 eight nor more than sixteen hours, or both.

32 (5) Any person who violates the provisions of this section  
33 by placing, depositing, dumping or throwing or causing to be  
34 placed, deposited, dumped or thrown any litter, not collected for  
35 commercial purposes, in an amount greater than one hundred  
36 pounds in weight or twenty-seven cubic feet in size, but less  
37 than five hundred pounds in weight or two hundred sixteen

38 cubic feet in size is guilty of a misdemeanor. Upon conviction  
39 he or she is subject to a fine of not less than five hundred  
40 dollars nor more than two thousand dollars, or in the discretion  
41 of the court, may be sentenced to perform community service  
42 by cleaning up litter from any public highway, road, street,  
43 alley or any other public park or public property, or waters of  
44 the state, as designated by the court, for not less than sixteen  
45 nor more than thirty-two hours, or both.

46 (6) Any person who violates the provisions of this section  
47 by placing, depositing, dumping or throwing or causing to be  
48 placed, deposited, dumped or thrown any litter in an amount  
49 greater than five hundred pounds in weight or two hundred  
50 sixteen cubic feet in size or any amount which had been  
51 collected for commercial purposes, is guilty of a misdemeanor.  
52 Upon conviction the person is subject to a fine not less than  
53 twenty-five hundred dollars or not more than twenty-five  
54 thousand dollars, or confinement in a county or regional jail for  
55 not more than one year or both. In addition, the violator may be  
56 guilty of creating or contributing to an open dump as defined in  
57 section two, article fifteen, chapter twenty-two of this code and  
58 subject to the enforcement provisions of section fifteen of said  
59 article.

60 (7) Any person convicted of a second or subsequent  
61 violation of this section is subject to double the authorized  
62 range of fines and community service for the subsection  
63 violated.

64 (8) The sentence of litter cleanup shall be verified by  
65 conservation officers from the division of natural resources or  
66 environmental inspectors from the division of environmental  
67 protection. Any defendant receiving the sentence of litter  
68 cleanup shall provide within a time to be set by the court  
69 written acknowledgment from a conservation officer or  
70 environmental inspector that the sentence has been completed

71 and the litter has been disposed of lawfully.

72 (9) Any person who has been found by the court to have  
73 willfully failed to comply with the terms of a litter cleanup  
74 sentence imposed by the court pursuant to this section is subject  
75 to, at the discretion of the court, double the amount of the  
76 original fines and community service penalties.

77 (10) All law-enforcement agencies, officers and environ-  
78 mental inspectors shall enforce compliance with this section  
79 within the limits of each agency's statutory authority.

80 (11) No portion of this section restricts an owner, renter or  
81 lessee in the lawful use of his or her own private property or  
82 rented or leased property or to prohibit the disposal of any  
83 industrial and other wastes into waters of this state in a manner  
84 consistent with the provisions of article eleven, chapter  
85 twenty-two of this code. But if any owner, renter or lessee,  
86 private or otherwise, knowingly permits any such materials or  
87 substances to be placed, deposited, dumped or thrown in such  
88 location that high water or normal drainage conditions will  
89 cause any such materials or substances to wash into any waters  
90 of the state, it is prima facie evidence that the owner, renter or  
91 lessee intended to violate the provisions of this section:  
92 *Provided*, That if a landowner, renter or lessee, private or  
93 otherwise, reports any placing, depositing, dumping or throwing  
94 of these substances or materials upon his or her property to the  
95 prosecuting attorney, county commission or the division of  
96 natural resources or the division of environmental protection,  
97 then the landowner, renter or lessee will be presumed to not  
98 have knowingly permitted the placing, depositing, dumping or  
99 throwing of the materials or substances.

100 (b) Any indication of ownership found in litter shall be  
101 prima facie evidence that the person identified violated the  
102 provisions of this section: *Provided*, That no inference may be

103 drawn solely from the presence of any logo, trademark, trade  
104 name or other similar mass reproduced things of identifying  
105 character appearing on the found litter.

106 (c) Every person who is convicted of or pleads guilty to  
107 disposing of litter in violation of subsection (a) of this section  
108 shall pay a civil penalty in the sum of not less than one hundred  
109 dollars nor more than one thousand dollars as costs for cleanup,  
110 investigation and prosecution of the case, in addition to any  
111 other court costs that the court is otherwise required by law to  
112 impose upon a convicted person.

113 The clerk of the circuit court, magistrate court or municipal  
114 court in which these additional costs are imposed shall, on or  
115 before the last day of each month, transmit fifty percent of a  
116 civil penalty received pursuant to this section to the state  
117 treasurer for deposit in the state treasury to the credit of a  
118 special revenue fund to be known as the litter control fund  
119 which is hereby continued. Expenditures for purposes set forth  
120 in this section are not authorized from collections but are to be  
121 made only in accordance with appropriation and in accordance  
122 with the provisions of article three, chapter twelve of this code  
123 and upon fulfillment of the provisions set forth in article two,  
124 chapter five-a of this code. Amounts collected which are found  
125 from time to time to exceed the funds needed for the purposes  
126 set forth in this article may be transferred to other accounts or  
127 funds and designated for other purposes by appropriation of the  
128 Legislature.

129 (d) The remaining fifty percent of each civil penalty  
130 collected pursuant to this section shall be transmitted to the  
131 county or regional solid waste authority in the county where the  
132 litter violation occurred. Moneys shall be expended by the  
133 county or regional solid waste authority for the purpose of litter  
134 prevention, cleanup and enforcement. The county commission  
135 shall cooperate with the county or regional solid waste authority

136 serving the respective county to develop a coordinated litter  
137 control program pursuant to section eight, article four, chapter  
138 twenty-two-c of this code.

139 (e) The commissioner of the division of motor vehicles,  
140 upon registering a motor vehicle or issuing an operator's or  
141 chauffeur's license, shall issue to the owner or licensee, as the  
142 case may be, a summary of this section and section fourteen,  
143 article fourteen, chapter seventeen-c of the code.

144 (f) The commissioner of the division of highways shall  
145 cause appropriate signs to be placed at the state boundary on  
146 each primary and secondary road, and at other locations  
147 throughout the state, informing those entering the state of the  
148 maximum penalty provided for disposing of litter in violation  
149 of subsection (a) of this section.

150 (g) Any state agency or political subdivision that owns,  
151 operates or otherwise controls any public area as may be  
152 designated by the director by rule promulgated pursuant to  
153 subdivision (8), subsection (a), section twenty-five of this  
154 article, shall procure and place litter receptacles at its own  
155 expense upon its premises and shall remove and dispose of litter  
156 collected in the litter receptacles. After receiving two written  
157 warnings from any law-enforcement officer or officers to  
158 comply with this subsection or the rules of the director, any  
159 person who fails to place and maintain the litter receptacles  
160 upon his or her premises in violation of this subsection or the  
161 rules of the director shall be fined fifteen dollars per day of the  
162 violation.

**CHAPTER 22C. ENVIRONMENTAL RESOURCES;  
BOARDS, AUTHORITIES, COMMISSIONS  
AND COMPACTS.**

**ARTICLE 4. COUNTY AND REGIONAL SOLID WASTE AUTHORITIES.**

**§22C-4-23. Powers, duties and responsibilities of authority generally.**

1 The authority may exercise all powers necessary or  
2 appropriate to carry out the purposes and duties provided in this  
3 article, including the following:

4 (1) Sue and be sued, plead and be impleaded and have and  
5 use a common seal.

6 (2) To conduct its business in the name of the county solid  
7 waste authority or the regional solid waste authority, as the case  
8 may be, in the names of the appropriate counties.

9 (3) The authority board of directors shall promulgate rules  
10 to implement the provisions of sections nine and ten of this  
11 article and is authorized to promulgate rules for purposes of this  
12 article and the general operation and administration of authority  
13 affairs.

14 (4) Adopt, and from time to time, amend and repeal bylaws  
15 necessary and proper for the conduct of its affairs consistent  
16 with this article.

17 (5) To promulgate such rules as may be proper and neces-  
18 sary to implement the purposes and duties of this article.

19 (6) Acquire, construct, reconstruct, enlarge, improve,  
20 furnish, equip, maintain, repair, operate, lease or rent or  
21 contract for the operation by any person, partnership, corpora-  
22 tion or governmental agency, any solid waste facility or  
23 collection, transportation and processing facilities related  
24 thereto.

25 (7) Issue negotiable bonds, notes, debentures or other  
26 evidences of indebtedness and provide for the rights of the  
27 holders thereof, incur any proper indebtedness and issue any



28 obligations and give any security therefor which it may deem  
29 necessary or advisable in connection with exercising powers as  
30 provided herein.

31 (8) Make available the use or services of any solid waste  
32 facility collection, transportation and processing facilities  
33 related thereto, to any person, partnership, corporation or  
34 governmental agency consistent with this article.

35 (9) Acquire by gift or purchase, hold and dispose of real  
36 and personal property in the exercise of its powers and duties.

37 (10) Make and enter all contracts, leases and agreements  
38 and to execute all instruments necessary or incidental to the  
39 performance of its duties and powers.

40 (11) Employ managers, engineers, accountants, attorneys,  
41 planners and such other professional and support personnel as  
42 are necessary in its judgment to carry out the provisions of this  
43 article.

44 (12) Receive and accept from any source such grants, fees,  
45 real and personal property, contributions, funds transferred  
46 from a solid waste facility and funds of any nature as may  
47 become available to the authority, in order to carry out the  
48 purposes of this article including, but not limited to, the  
49 development, operation or management of litter control  
50 programs and recycling programs: *Provided*, That nothing  
51 contained in this subsection shall be construed to extend the  
52 authority or jurisdiction of the public service commission to  
53 activities under this subsection solely because the activities are  
54 funded by moneys transferred from a solid waste facility, nor  
55 may the use of transferred funds by a solid waste authority be  
56 considered by the public service commission in carrying out its  
57 duties under section one-f, article two, chapter twenty-four of  
58 this code.

59 (13) Cooperate with and make such recommendations to  
60 local, state and federal government and the private sector in the

61 technical, planning and public policy aspects of litter control  
62 and solid waste management as the authority may find appro-  
63 priate and effective to carry out the purposes of this article.

64 (14) Charge, alter and collect rentals, fees, service charges  
65 and other charges for the use or services of any solid waste  
66 facilities or any solid waste collection, transportation and  
67 processing services provided by the authority.

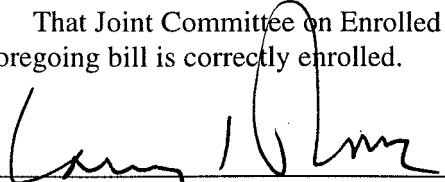
68 (15) Prohibit the dumping of solid waste outside the hours  
69 of operation of a solid waste facility.

70 (16) Enforce the hours of operation of a solid waste facility  
71 and the mandatory disposal provision in section ten of this  
72 article by referring violations to the division of environmental  
73 protection or the appropriate law-enforcement authorities.

74 (17) Do all acts necessary and proper to carry out the  
75 powers expressly granted to the authority by this article and  
76 powers conferred upon the authority by this article.

77 All rules promulgated by the authority pursuant to this  
78 article are exempt from the provisions of article three, chapter  
79 twenty-nine-a of this code.

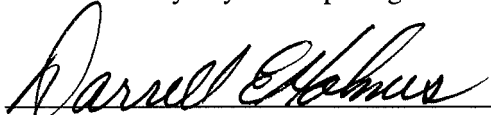
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

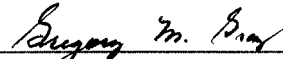
  
Chairman Senate Committee

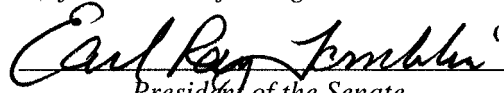
  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

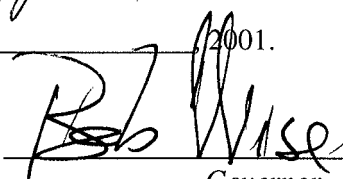
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is approved this the 5th  
day of April 2001.

  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/3/01

Time 8:58 am