WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2001

ENROLLED

House Bill No. 2440
(By Delegates Mahan, Coleman, Pino, C. White, Faircloth, Smirl and Stemple)

Passed April 11, 2001

In Effect Ninety Days from Passage
AN ACT to amend chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-four-a, relating to disposal of abandoned motor vehicles, junked motor vehicles, and abandoned or inoperative household appliances; defining terms; prohibiting abandonment of motor vehicles, parts of motor vehicles or inoperative household appliances; establishing penalties; authorizing law enforcement agencies to take custody of abandoned motor vehicles, junked motor vehicles, parts of motor vehicles and inoperable household appliances; authorizing law enforcement agencies to hire or contract with others to store and dispose of abandoned motor vehicles, junked motor vehicles, parts of motor vehicles and inoperative household appliances; requiring notice to owners and lienholders of record before disposing of abandoned or junked motor vehicles; allowing owners and lienholders to reclaim abandoned or junked motor vehicles; establishing requirements for reclaiming abandoned or junked motor vehicles; providing that failure to reclaim an abandoned or junked motor vehicle is waiver of all right, title and
interest to the vehicle; authorizing sale of abandoned or junked
motor vehicles; authorizing disposal of vehicles abandoned at
automobile dealerships and repair shops; requiring salvage yards
and demolishers to dispose of abandoned vehicles within six
months of receiving the vehicles or pay title fees and taxes;
requiring sale of inoperative or abandoned household appliances;
authorizing payment of expenses incurred in taking possession,
storage and sale of abandoned or junked motor vehicles and
inoperative or abandoned household appliances; requiring any
funds remaining after payment of expenses be held for ninety
days to allow owner to claim the funds; requiring deposit of all
unclaimed funds into the road fund; and providing for injunctive
and other relief for violation of this article.

Be it enacted by the Legislature of West Virginia:

That chapter seventeen of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, be amended by adding
thereto a new article, designated article twenty-four-a, to read as
follows:

ARTICLE 24A. DISPOSAL OF ABANDONED MOTOR VEHICLES,
JUNKED MOTOR VEHICLES, AND ABANDONED OR
INOPERATIVE HOUSEHOLD APPLIANCES.


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

(1) “Commissioner” means the commissioner of the
division of highways or his or her designee.

(2) “Abandoned household appliance” means a refrigerator,
freezer, range, stove, automatic dishwasher, clothes washer,
clothes dryer, trash compactor, television set, radio, air condi-
tioning unit, commode, bed springs, mattress or other furniture,
fixtures or appliances to which no person claims ownership and
which is not in an enclosed building, a licensed salvage yard or
the actual possession of a demolisher.

(3) "Abandoned motor vehicle" means any motor vehicle,
or major part thereof, which is inoperative and which has been
abandoned on public 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 on
private property without consent of the owner or person in
control of the property for any period of time over five 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: Provided, That a motor vehicle, or major part
thereof, shall not be considered an abandoned motor vehicle if:
(a) The owner of the motor vehicle is storing the motor vehicle
on the owner’s property; (b) the motor vehicle is being stored
for the purpose of using its parts on other motor vehicles owned
by the owner; (c) the owner owns other motor vehicles similar
to the motor vehicle being stored; and (d) the owner is a
business licensed to do business in the state of West Virginia
and not in the primary business of offering motor vehicles or
parts thereof for sale.

(4) "Demolisher" means any person licensed by the
commissioner of the division 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.
(5) "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.

(6) "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 division of highways, his or her duly authorized agents and employees.

(7) "Inoperative household appliance" means a refrigerator, freezer, range, stove, automatic dishwasher, clothes washer, clothes dryer, trash compactor, television set, radio, air conditioning unit, commode, bed springs, mattress or other furniture, fixture or appliance which by reason of mechanical or physical defects can no longer be used for its intended purpose and which is either not serving a functional purpose or use or is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher.

(8) "Junked motor vehicle" means a motor vehicle, or any part thereof which: (a) Is discarded, wrecked, ruined, scrapped or dismantled; (b) cannot pass the state inspection required by article sixteen, chapter seventeen-c of this code; and (c) is either not serving a functional purpose or use or is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher: Provided, That a motor vehicle, or major part thereof, shall not be considered a junked motor vehicle if:
   (a) The owner of the motor vehicle is storing the motor vehicle on the owner’s property; (b) the motor vehicle is being stored
for the purpose of using its parts on other motor vehicles owned
by the owner; (c) the owner owns other motor vehicles similar
to the motor vehicle being stored; and (d) the owner is a
business licensed to do business in the state of West Virginia
and not in the primary business of offering motor vehicles or
parts thereof for sale.

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

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

(11) "Person" means a natural person, corporation, firm,
partnership, association or society and the plural as well as the
singular.

§17-24A-2. Abandonment of motor vehicle prohibited; inopera-
tive household appliances prohibited in certain
places; penalty.

(a) No person shall, within this state, abandon a motor
vehicle or major part thereof upon the right-of-way of any
public highway, upon any other public property or upon any
private property without the consent of the owner or person in
control of the property, or upon property owned or controlled
by that person, unless it be at a licensed salvage yard or at the
business establishment of a demolisher, or a business licensed
to do business in the state of West Virginia and not in the
primary business of offering motor vehicles or parts thereof for
sale. Any person who violates any provision of this section
shall be guilty of a misdemeanor and, upon conviction thereof,
shall be sentenced and fined as set forth below.

(b) No person shall, within this state, place or abandon any
inoperative household appliance upon the right-of-way of any
public highway or upon any other public property; nor shall any
person, within this state, place or abandon any inoperative household appliance upon any private property unless it be at a licensed salvage yard, solid waste facility, other business authorized to accept such solid waste 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 sentenced and fined as set forth below.

(c) Any person who is guilty of a misdemeanor as described in this section and the abandoned motor vehicle, junked motor vehicle, or inoperative household appliance does not exceed one hundred pounds in weight or twenty-seven cubic feet in size is subject to a fine of not less than fifty dollars nor more than one thousand dollars or, in the discretion of the court, sentenced to perform community service by cleaning up litter from any public highway, road, street, alley or any other public park or public property or waters of the state, as designated by the court, for not less than eight nor more than sixteen hours, or both.

(d) Any person who is guilty of a misdemeanor as described in this section and the abandoned motor vehicle, junked motor vehicle or inoperative household appliance is greater than one hundred pounds in weight or twenty-seven cubic feet in size, but less than five hundred pounds in weight or two hundred sixteen cubic feet, is subject to a fine of not less than five hundred dollars nor more than two thousand dollars or, in the discretion of the court, may be sentenced to perform community service by cleaning up litter from any public highway, road, street, alley or any other public park or public property or waters of the state, as designated by the court, for not less than sixteen nor more than thirty-two hours, or both.
(e) Any person who is guilty of a misdemeanor as described in this section and the abandoned motor vehicle, junked motor vehicle or inoperative household appliance is greater than five hundred pounds in weight or two hundred sixteen cubic feet in size is subject to a fine not less than twenty-five hundred dollars or not more than twenty-five thousand dollars or confinement in a county or regional jail for not more than one year, or both. In addition, the violator may be guilty of creating or contributing to an open dump as defined in section two, article fifteen, chapter twenty-two of this code and subject to the enforcement provisions of section fifteen of said article.

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

(g) The sentence of litter cleanup shall be verified by conservation officers from the division of natural resources or environmental inspectors from the division of environmental protection. Any defendant receiving the sentence of litter cleanup shall provide within a time to be set by the court written acknowledgment from a conservation officer or environmental inspector that the sentence has been completed and the litter has been disposed of lawfully.

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

Any enforcement agency which has knowledge of or discovers or finds any abandoned motor vehicle, junked motor vehicle or inoperative household appliance on either public or private property may take it into its custody and possession. For that purpose, the enforcement agency may employ its own personnel, equipment and facilities or hire persons, equipment and facilities for the purpose of removing, preserving and storing abandoned motor vehicles, junked motor vehicles or inoperative household appliances: 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 the motor vehicle, if ascertainable, a thirty-day notice by registered or certified mail that the action will be taken unless the motor vehicle is restored to a functional use.

§17-24A-4. Abandoned or junked motor vehicles; notification to motor vehicle owner and lienholder; charges and fees; exceptions.

(a) The enforcement agency which takes into custody and possession an abandoned motor vehicle or junked motor vehicle shall, within fifteen days after taking custody and possession thereof, notify the last-known registered owner of the motor vehicle and all lienholders of record that the motor vehicle has been taken into custody and possession, the notification to be by registered or certified mail, return receipt requested. The notice shall:

(1) Contain a description of the motor vehicle, including the year, make, model, manufacturer’s serial or identification number or any other number which may have been assigned to the motor vehicle by the commissioner of motor vehicles and any distinguishing marks;
(2) Set forth the location of the facility where the motor vehicle is being held and the location where the motor vehicle was taken into custody and possession;

(3) Inform the owner and any lienholders of record of their right to reclaim the 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 the motor vehicle into custody and possession; and

(4) State that the failure of the owner or lienholders of record to exercise their right to reclaim the motor vehicle within the ten-day period shall be deemed a waiver by the owner and all lienholders of record of all right, title and interest in the 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, the publication area shall be the county wherein the motor vehicle was located at the time the enforcement agency took custody and possession thereof and the 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 fifteen days after the 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 the notice is published as
aforesaid.

(c) An enforcement agency which hires any person or entity
to take into custody and possession an abandoned motor vehicle
or junked motor vehicle pursuant to this section shall notify the
person or entity hired of the name and address of the registered
owner of the motor vehicle, if known, and all lienholders of
record, if any, within fifteen days after the vehicle is taken into
custody and possession: Provided, That the requirements of this
subsection shall not apply to motor vehicles for which the
registered owner cannot be ascertained by due diligence or
investigation.

(d) The person or entity hired by an enforcement agency to
take into custody or possession an abandoned motor vehicle or
junked motor vehicle shall, within thirty days after the posses-
sion, notify the registered owner of the vehicle and all
lienholders of record, if any, as identified by the enforcement
agency pursuant to subsection (c) of this section, by registe:red
mail, return receipt requested, that the motor vehicle has been
taken into custody and possession. The notice shall have the
same contents required for a notice pursuant to subsection (a)
of this section, including the ten-day period the owner or
lienholder has to reclaim the motor vehicle. Upon the issuance
of the notice, the identified owner of the motor vehicle is liable
and responsible for all costs for towing, preservation and
storage of the motor vehicle: Provided, That failure to issue the
notice required by this subsection within thirty days after
possession of the motor vehicle relieves the identified owner of
the motor vehicle of any liability for charges for towing,
preservation and storage in excess of the sum of the first five
days of the charges: Provided, however, That the requirements
of this subsection do not apply to motor vehicles for which the
registered owner thereof cannot be ascertained by due diligence
or investigation.

(e) For an abandoned motor vehicle or junked vehicle
having a loan value of two thousand five hundred dollars or
less, as ascertained by values placed upon motor vehicles using
a standard industry reference book, a person or entity hired by
an enforcement agency to tow the abandoned motor vehicle or
junked motor vehicle may, if the motor vehicle is not claimed
by the owner or a lienholder after notice within the time set
forth in subsection (d) of this section or 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 of the
owner or if it is impossible to determine with reasonable
certainty the identity and address of all lienholders after
publication as set forth in subsection (b) of this section, file an
application with the division of motor vehicles for a certificate
of title and registration which, upon payment of the appropriate
fees, shall be issued. The person or entity may then sell the
motor vehicle at private sale or public auction.

(f) For an abandoned motor or junked motor vehicle having
a loan value of two thousand five hundred dollars or less, as
ascertained by values placed upon motor vehicles using a
standard industry reference book, a licensed motor vehicle
dealer, as defined in section one, article one, chapter seventeen-
a of this code, or a motor vehicle repair facility may, if a motor
vehicle is abandoned on the property or place of business of the
dealer or a motor vehicle repair facility and is not claimed by
the owner or a lienholder after notice within the time set forth
in subsection (d) of this section or if the identity of the last
registered owner of the abandoned motor vehicle cannot be
determined or if the certificate of registration or certificate of
title contains no address of the owner or if it is impossible to
determine with reasonable certainty the identity and address of all lienholders after publication as set forth in subsection (b) of this section, file an application with the division of motor vehicles for a certificate of title and registration which, upon payment of the appropriate fees, shall be issued. The dealer or motor vehicle repair facility may then sell the motor vehicle at private sale or public auction.


(a) If an abandoned motor vehicle or junked motor vehicle is not reclaimed as provided for in section five 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 the motor vehicle shall take title to the 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 the motor vehicle. The sales receipt at the sale shall be sufficient title only for purposes of transferring the motor vehicle to a licensed salvage yard or to a demolisher for demolition, wrecking or dismantling and no further titling of the 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 the motor vehicle in the possession of a licensed salvage yard or demolisher within twenty days from the date he or she purchased the motor vehicle and the licensed salvage yards or demolisher must demolish, wreck or dismantle the motor vehicle within six months after taking possession of the motor vehicle and if the licensed salvage yard or demolisher does not,
the 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 inoperative or abandoned household appliances collected in accordance with section seven of this article it shall sell the property from time to time at public auction or to a licensed salvage yard or demolisher.


From the proceeds of any sale, the enforcement agency which sold the abandoned motor vehicle, junked motor vehicle or inoperative 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 the sale of an abandoned motor vehicle or junked motor vehicle after payment of expenses shall be held for the last registered owner of the motor vehicle or any lienholder for ninety days, after which time, if no owner or lienholder claims the remainder, it shall be deposited in the state road fund.


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 or inoperative household appliances, in violation of any provision of this article.
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 17th day of April, 2001.

Governor