

**FILED**

2001 APR 17 P 5:34

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# **WEST VIRGINIA LEGISLATURE**

FIRST REGULAR SESSION, 2001

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**ENROLLED**

## **House Bill No. 2440**

(By Delegates Mahan, Coleman, Pino, C. White,  
Faircloth, Smirl and Stemple)

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Passed April 11, 2001

In Effect Ninety Days from Passage

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**H. B. 2440**

(BY DELEGATES MAHAN, COLEMAN, PINO, C. WHITE,  
FAIRCLOTH, SMIRL AND STEMPLER)

[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 inoperable 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.**

**§17-24A-1. Definitions.**

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

3 (1) "Commissioner" means the commissioner of the  
4 division of highways or his or her designee.

5 (2) "Abandoned household appliance" means a refrigerator,  
6 freezer, range, stove, automatic dishwasher, clothes washer,  
7 clothes dryer, trash compactor, television set, radio, air condi-  
8 tioning unit, commode, bed springs, mattress or other furniture,

9 fixtures or appliances to which no person claims ownership and  
10 which is not in an enclosed building, a licensed salvage yard or  
11 the actual possession of a demolisher.

12 (3) "Abandoned motor vehicle" means any motor vehicle,  
13 or major part thereof, which is inoperative and which has been  
14 abandoned on public property for any period of time over five  
15 days, other than in an enclosed building or in a licensed salvage  
16 yard or at the business establishment of a demolisher; or any  
17 motor vehicle, or major part thereof, which has remained on  
18 private property without consent of the owner or person in  
19 control of the property for any period of time over five days; or  
20 any motor vehicle, or major part thereof, which is unattended,  
21 discarded, deserted and unlicensed and is not in an enclosed  
22 building, a licensed salvage yard or the actual possession of a  
23 demolisher: *Provided*, That a motor vehicle, or major part  
24 thereof, shall not be considered an abandoned motor vehicle if:  
25 (a) The owner of the motor vehicle is storing the motor vehicle  
26 on the owner's property; (b) the motor vehicle is being stored  
27 for the purpose of using its parts on other motor vehicles owned  
28 by the owner; (c) the owner owns other motor vehicles similar  
29 to the motor vehicle being stored; and (d) the owner is a  
30 business licensed to do business in the state of West Virginia  
31 and not in the primary business of offering motor vehicles or  
32 parts thereof for sale.

33 (4) "Demolisher" means any person licensed by the  
34 commissioner of the division of highways whose business, to  
35 any extent or degree, is to convert a motor vehicle or any part  
36 thereof or an inoperative household appliance into processed  
37 scrap or scrap metal or into saleable parts or otherwise to wreck  
38 or dismantle vehicles or appliances.

39 (5) "Enclosed building" means a structure surrounded by  
40 walls or one continuous wall and having a roof enclosing the  
41 entire structure and includes a permanent appendage thereto.

42 (6) "Enforcement agency" means any of the following or  
43 any combination of the following:

44 (a) Public law-enforcement officers of this state, including  
45 conservation officers;

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

48 (c) The commissioner of the division of highways, his or  
49 her duly authorized agents and employees.

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

59 (8) "Junked motor vehicle" means a motor vehicle, or any  
60 part thereof which: (a) Is discarded, wrecked, ruined, scrapped  
61 or dismantled; (b) cannot pass the state inspection required by  
62 article sixteen, chapter seventeen-c of this code; and (c) is either  
63 not serving a functional purpose or use or is not in an enclosed  
64 building, a licensed salvage yard or the actual possession of a  
65 demolisher: *Provided*, That a motor vehicle, or major part  
66 thereof, shall not be considered a junked motor vehicle if:  
67 (a) The owner of the motor vehicle is storing the motor vehicle  
68 on the owner's property; (b) the motor vehicle is being stored

69 for the purpose of using its parts on other motor vehicles owned  
70 by the owner; (c) the owner owns other motor vehicles similar  
71 to the motor vehicle being stored; and (d) the owner is a  
72 business licensed to do business in the state of West Virginia  
73 and not in the primary business of offering motor vehicles or  
74 parts thereof for sale.

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

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

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

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

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

13 (b) No person shall, within this state, place or abandon any  
14 inoperative household appliance upon the right-of-way of any  
15 public highway or upon any other public property; nor shall any

16 person, within this state, place or abandon any inoperative  
17 household appliance upon any private property unless it be at a  
18 licensed salvage yard, solid waste facility, other business  
19 authorized to accept such solid waste or at the business estab-  
20 lishment of a demolisher. Any person who violates any provi-  
21 sion of this section shall be guilty of a misdemeanor and, upon  
22 conviction thereof, shall be sentenced and fined as set forth  
23 below.

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

35 (d) Any person who is guilty of a misdemeanor as described  
36 in this section and the abandoned motor vehicle, junked motor  
37 vehicle or inoperative household appliance is greater than one  
38 hundred pounds in weight or twenty-seven cubic feet in size,  
39 but less than five hundred pounds in weight or two hundred  
40 sixteen cubic feet, is subject to a fine of not less than five  
41 hundred dollars nor more than two thousand dollars or, in the  
42 discretion of the court, may be sentenced to perform community  
43 service by cleaning up litter from any public highway, road,  
44 street, alley or any other public park or public property or  
45 waters of the state, as designated by the court, for not less than  
46 sixteen nor more than thirty-two hours, or both.

47 (e) Any person who is guilty of a misdemeanor as described  
48 in this section and the abandoned motor vehicle, junked motor  
49 vehicle or inoperative household appliance is greater than five  
50 hundred pounds in weight or two hundred sixteen cubic feet in  
51 size is subject to a fine not less than twenty-five hundred dollars  
52 or not more than twenty-five thousand dollars or confinement  
53 in a county or regional jail for not more than one year, or both.  
54 In addition, the violator may be guilty of creating or contribut-  
55 ing to an open dump as defined in section two, article fifteen,  
56 chapter twenty-two of this code and subject to the enforcement  
57 provisions of section fifteen of said article.

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

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

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

**§17-24A-3. Authority to take possession of abandoned motor  
vehicles, junked motor vehicles, and inoperative  
household appliances.**



1 Any enforcement agency which has knowledge of or  
2 discovers or finds any abandoned motor vehicle, junked motor  
3 vehicle or inoperative household appliance on either public or  
4 private property may take it into its custody and possession. For  
5 that purpose, the enforcement agency may employ its own  
6 personnel, equipment and facilities or hire persons, equipment  
7 and facilities for the purpose of removing, preserving and  
8 storing abandoned motor vehicles, junked motor vehicles or  
9 inoperative household appliances: *Provided*, That before taking  
10 any abandoned motor vehicle or junked motor vehicle into  
11 custody and possession from private property, the enforcement  
12 agency shall give the private property owner and the owner of  
13 the motor vehicle, if ascertainable, a thirty-day notice by  
14 registered or certified mail that the action will be taken unless  
15 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.**

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

9 (1) Contain a description of the motor vehicle, including the  
10 year, make, model, manufacturer's serial or identification  
11 number or any other number which may have been assigned to  
12 the motor vehicle by the commissioner of motor vehicles and  
13 any distinguishing marks;

14 (2) Set forth the location of the facility where the motor  
15 vehicle is being held and the location where the motor vehicle  
16 was taken into custody and possession;

17 (3) Inform the owner and any lienholders of record of their  
18 right to reclaim the motor vehicle within ten days after the date  
19 notice was received by the owner or lienholders, upon payment  
20 of all towing, preservation and storage charges resulting from  
21 taking and placing the motor vehicle into custody and posses-  
22 sion; and

23 (4) State that the failure of the owner or lienholders of  
24 record to exercise their right to reclaim the motor vehicle within  
25 the ten-day period shall be deemed a waiver by the owner and  
26 all lienholders of record of all right, title and interest in the  
27 motor vehicle and of their consent to the sale or disposal of the  
28 abandoned motor vehicle or junked motor vehicle at a public  
29 auction or to a licensed salvage yard or demolisher.

30 (b) If the identity of the last registered owner of the  
31 abandoned motor vehicle or junked motor vehicle cannot be  
32 determined or if the certificate of registration or certificate of  
33 title contains no address for the owner or if it is impossible to  
34 determine with reasonable certainty the identity and addresses  
35 of all lienholders, notice shall be published as a Class I legal  
36 advertisement in compliance with the provisions of article  
37 three, chapter fifty-nine of this code, the publication area shall  
38 be the county wherein the motor vehicle was located at the time  
39 the enforcement agency took custody and possession thereof  
40 and the notice shall be sufficient to meet all requirements of  
41 notice pursuant to this article. Any notice by publication may  
42 contain multiple listings of abandoned motor vehicles and  
43 junked motor vehicles. The notice shall be published within  
44 fifteen days after the motor vehicle is taken into custody and  
45 possession and shall have the same contents required for a

46 notice pursuant to subsection (a) of this section, except that the  
47 ten-day period shall run from the date the notice is published as  
48 aforesaid.

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

59 (d) The person or entity hired by an enforcement agency to  
60 take into custody or possession an abandoned motor vehicle or  
61 junked motor vehicle shall, within thirty days after the posses-  
62 sion, notify the registered owner of the vehicle and all  
63 lienholders of record, if any, as identified by the enforcement  
64 agency pursuant to subsection (c) of this section, by registered  
65 mail, return receipt requested, that the motor vehicle has been  
66 taken into custody and possession. The notice shall have the  
67 same contents required for a notice pursuant to subsection (a)  
68 of this section, including the ten-day period the owner or  
69 lienholder has to reclaim the motor vehicle. Upon the issuance  
70 of the notice, the identified owner of the motor vehicle is liable  
71 and responsible for all costs for towing, preservation and  
72 storage of the motor vehicle: *Provided*, That failure to issue the  
73 notice required by this subsection within thirty days after  
74 possession of the motor vehicle relieves the identified owner of  
75 the motor vehicle of any liability for charges for towing,  
76 preservation and storage in excess of the sum of the first five  
77 days of the charges: *Provided, however*, That the requirements  
78 of this subsection do not apply to motor vehicles for which the

79 registered owner thereof cannot be ascertained by due diligence  
80 or investigation.

81 (e) For an abandoned motor vehicle or junked vehicle  
82 having a loan value of two thousand five hundred dollars or  
83 less, as ascertained by values placed upon motor vehicles using  
84 a standard industry reference book, a person or entity hired by  
85 an enforcement agency to tow the abandoned motor vehicle or  
86 junked motor vehicle may, if the motor vehicle is not claimed  
87 by the owner or a lienholder after notice within the time set  
88 forth in subsection (d) of this section or if the identity of the last  
89 registered owner of the abandoned motor vehicle or junked  
90 motor vehicle cannot be determined or if the certificate of  
91 registration or certificate of title contains no address of the  
92 owner or if it is impossible to determine with reasonable  
93 certainty the identity and address of all lienholders after  
94 publication as set forth in subsection (b) of this section, file an  
95 application with the division of motor vehicles for a certificate  
96 of title and registration which, upon payment of the appropriate  
97 fees, shall be issued. The person or entity may then sell the  
98 motor vehicle at private sale or public auction.

99 (f) For an abandoned motor or junked motor vehicle having  
100 a loan value of two thousand five hundred dollars or less, as  
101 ascertained by values placed upon motor vehicles using a  
102 standard industry reference book, a licensed motor vehicle  
103 dealer, as defined in section one, article one, chapter seventeen-  
104 a of this code, or a motor vehicle repair facility may, if a motor  
105 vehicle is abandoned on the property or place of business of the  
106 dealer or a motor vehicle repair facility and is not claimed by  
107 the owner or a lienholder after notice within the time set forth  
108 in subsection (d) of this section or if the identity of the last  
109 registered owner of the abandoned motor vehicle cannot be  
110 determined or if the certificate of registration or certificate of  
111 title contains no address of the owner or if it is impossible to

112 determine with reasonable certainty the identity and address of  
113 all lienholders after publication as set forth in subsection (b) of  
114 this section, file an application with the division of motor  
115 vehicles for a certificate of title and registration which, upon  
116 payment of the appropriate fees, shall be issued. The dealer or  
117 motor vehicle repair facility may then sell the motor vehicle at  
118 private sale or public auction.

**§17-24A-5. Disposal of abandoned motor vehicles, junked motor  
vehicles, and inoperative or abandoned household  
appliances.**

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

24 the licensed salvage yard or demolisher shall be required to pay  
25 all fees and taxes required under article three, chapter seven-  
26 teen-a of this code.

27 (b) When an enforcement agency has in its custody and  
28 possession inoperative or abandoned household appliances  
29 collected in accordance with section seven of this article it shall  
30 sell the property from time to time at public auction or to a  
31 licensed salvage yard or demolisher.

**§17-24A-6. Proceeds from sale of abandoned motor vehicles,  
junked motor vehicles, and inoperative household  
appliances.**

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

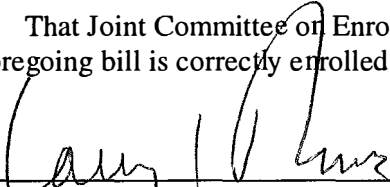
8 Any remainder from the proceeds of the sale of an aban-  
9 doned motor vehicle or junked motor vehicle after payment of  
10 expenses shall be held for the last registered owner of the motor  
11 vehicle or any lienholder for ninety days, after which time, if no  
12 owner or lienholder claims the remainder, it shall be deposited  
13 in the state road fund.

**§17-24A-7. Injunctive relief; additional remedy.**

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

6 to the circuit court, or the judge thereof in vacation, of the  
7 county where the alleged violation occurred for an injunction to  
8 restrain, prevent or abate the maintenance and storage of  
9 abandoned motor vehicles, junked motor vehicles or inoperative  
10 household appliances, in violation of any provision of this  
11 article.

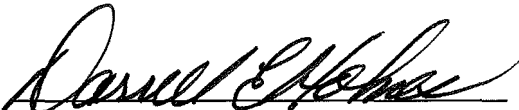
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

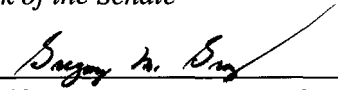
  
\_\_\_\_\_  
Chairman Senate Committee

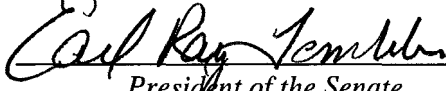
  
\_\_\_\_\_  
Chairman House Committee

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 17<sup>th</sup>  
day of April, 2001.

  
\_\_\_\_\_  
Governor



PRESENTED TO THE

GOVERNOR

Date 4/14/01

Time 12:45