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REGULAR SESSION, 2010

ENROLLED

COMMITTEE SUBSTITUTE

FOR

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 398

(SENATOR K. FACEMYER, *original sponsor*)

[Passed March 13, 2010; in effect ninety days from passage.]

SB 398

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(SENATOR K. FACEMYER, *original sponsor*)

[Passed March 13, 2010; in effect ninety days from passage.]

AN ACT to amend and reenact §22-15A-2 and §22-15A-22 of the Code of West Virginia, 1931, as amended, relating to prohibiting disposal of certain items in landfills; prohibiting the disposal of covered electronic devices; requiring the Solid Waste Management Board to create a program for the proper handling of certain items; and requiring the secretary to promulgate a rule to implement and enforce the disposal program.

Be it enacted by the Legislature of West Virginia:

That §22-15A-2 and §22-15A-22 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 15A. THE A. JAMES MANCHIN REHABILITATION ENVIRONMENTAL ACTION PLAN.

§22-15A-2. Definitions.

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

3 (1) "Beneficial use" means the use or reuse of whole
4 waste tires or tire derived material which are reused in
5 constructing retaining walls, rebuilding highway shoul-
6 ders and subbase, building highway crash attenuation
7 barriers and other civil engineering applications, feed
8 hopper or watering troughs for livestock, other agricul-
9 tural uses approved by the Department of Environmental
10 Protection, playground equipment, boat or truck dock
11 construction, house or building construction, go-cart,
12 motorbike or race track barriers, recapping, alternative
13 daily cover or similar types of beneficial applications:
14 *Provided*, That waste tires may not be reused as fencing,
15 as erosion control structures, along stream banks or river
16 banks or reused in any manner where human health or the
17 environment, as determined by the Secretary of the
18 Department of Environmental Protection, is put at risk.

19 (2) "Brand" means the name, symbol, logo, trademark,
20 or other information that identifies a product rather than
21 the components of the product.

22 (3) "Collected for commercial purposes" means taking
23 solid waste for disposal from any person for remuneration
24 regardless of whether or not the person taking the solid
25 waste is a common carrier by motor vehicle governed by
26 article two, chapter twenty-four-a of this code.

27 (4) "Computer" means a desktop, personal computer or
28 laptop computer, including the computer monitor.
29 Computer does not include a personal digital assistant
30 device, computer peripheral devices such as a mouse or
31 other similar pointing device, a printer or a detachable
32 keyboard.

33 (5) “Court” means any circuit, magistrate or municipal
34 court.

35 (6) “Covered electronic device” means a television,
36 computer or video display device with a screen that is
37 greater than four inches measured diagonally. “Covered
38 electronic device” does not include a video display device
39 that is part of a motor vehicle or that is contained within
40 a household appliance or commercial, industrial or
41 medical equipment.

42 (7) “Department” means the Department of Environ-
43 mental Protection.

44 (8) “Litter” means all waste material, including, but not
45 limited to, any garbage, refuse, trash, disposable package,
46 container, can, bottle, paper, covered electronic devices,
47 ashes, cigarette or cigar butt, carcass of any dead animal
48 or any part thereof or any other offensive or unsightly
49 matter, but not including the wastes of primary processes
50 of mining, logging, sawmilling, farming or manufacturing.

51 (9) “Litter receptacle” means those containers suitable
52 for the depositing of litter at each respective public area
53 designated by the secretary’s rules promulgated pursuant
54 to subsection (e), section three of this article.

55 (10) “Manufacturer” means a person that is the brand
56 owner of a covered electronic device or television sold or
57 offered for sale in this state by any means, including
58 transactions conducted through retail sales outlets,
59 catalogs or the Internet.

60 (11) “Person” means a natural person, corporation, firm,
61 partnership, association or society and the plural as well
62 as the singular.

63 (12) “Public area” means an area outside of a municipal-
64 ity, including public road and highway rights-of-way,
65 parks and recreation areas owned or controlled by this

66 state or any county of this state or an area held open for
67 unrestricted access by the general public.

68 (13) "Recyclable materials" means those materials that
69 would otherwise become solid waste for disposal in a
70 refuse disposal system and which may be collected,
71 separated or processed and returned to the marketplace in
72 the form of raw materials or products.

73 (14) "Remediate or remediation" means to remove all
74 litter, solid waste and tires located above grade at a site:
75 *Provided*, That remediation does not include clean up of
76 hazardous waste.

77 (15) "Television" means any telecommunication system
78 device that can receive moving pictures and sound broad-
79 cast over a distance and includes a television tuner or a
80 video display device peripheral to a computer in which the
81 display contains a television tuner.

82 (16) "Secretary" means the Secretary of the Department
83 of Environmental Protection.

84 (17) "Video display device" means an electronic device
85 with an output surface that displays or is capable of
86 displaying moving graphical images or visual representa-
87 tions of image sequences or pictures that show a number
88 of quickly changing images on a screen to create the
89 illusion of motion. Video display device includes a device
90 that is an integral part of the display and cannot easily be
91 removed from the display by the consumer and that
92 produces the moving image on the screen. A "video
93 display device" may use a cathode-ray tube (CRT), liquid
94 crystal display (LCD), gas plasma, digital light processing,
95 other image-projection technology or imaging display
96 technologies.

97 (18) "Waste tire" means any continuous solid or pneu-
98 matic rubber covering designed to encircle the wheel of a

99 vehicle but which has been discarded, abandoned or is no
100 longer suitable for its original, intended purpose nor
101 suitable for recapping, or other beneficial use because of
102 wear, damage or defect. A tire is no longer considered to
103 be suitable for its original intended purpose when it fails
104 to meet the minimum requirements to pass a West Virginia
105 motor vehicle safety inspection. Used tires located at a
106 commercial recapping facility or tire dealer for the
107 purpose of being reused or recapped are not waste tires.

108 (19) "Waste tire monofill or monofill" means an ap-
109 proved solid waste facility where no solid waste except
110 waste tires are placed for the purpose of long term storage
111 for eventual retrieval for marketing purposes.

112 (20) "Waste tire processing facility" means a solid waste
113 facility or manufacturer that accepts waste tires generated
114 by sources other than the owner or operator of the facility
115 for processing by such means as cryogenics, pyrolysis,
116 pyroprocessing cutting, splitting, shredding, quartering,
117 grinding or otherwise breaking down waste tires for the
118 purposes of disposal, reuse, recycling and/or marketing.

119 (21) "Waters of the state" means generally, without
120 limitation, natural or artificial lakes, rivers, streams,
121 creeks, branches, brooks, ponds, impounding reservoirs,
122 springs, wells, watercourses and wetlands.

123 (22) "Yard waste" means grass clippings, weeds, leaves,
124 brush, garden waste, shrub or tree prunings and other
125 living or dead plant tissues, except that materials, which
126 due to inadvertent contamination or mixture with other
127 substances which render the waste unsuitable for com-
128 posting, are not yard waste: *Provided*, That the same or
129 similar waste generated by commercial agricultural
130 enterprises is excluded.

§22-15A-22. Prohibition on the disposal of certain items; plans for the proper handling of said items required.

1 (a) It is unlawful to dispose of lead-acid batteries in a
2 solid waste landfill in West Virginia.

3 (b) It is unlawful to dispose of tires in a solid waste
4 landfill in West Virginia except for waste tires collected as
5 part of the department's waste tire remediation projects or
6 other collection efforts in accordance with the provisions
7 of this article or the pollution prevention program and
8 open dump program or other state-authorized remediation
9 or clean up programs: *Provided,*

10 That waste tires may be disposed of in solid waste landfills
11 only when the state agency authorizing the remediation or
12 clean up program has determined there is no reasonable
13 alternative available.

14 (c) It is unlawful to dispose of yard waste in a solid
15 waste facility in West Virginia: *Provided,* That the prohi-
16 bitions do not apply to a facility designed specifically to
17 compost yard waste or otherwise recycle or reuse yard
18 waste: *Provided, however,* That reasonable and necessary
19 exceptions to the prohibitions may be included as part of
20 the rules promulgated pursuant to subsection (f).

21 (d) Effective January 1, 2011, covered electronic devices,
22 as defined in section two of this article, may not be
23 disposed of in a solid waste landfill in West Virginia.

24 (e) The Solid Waste Management Board shall design a
25 comprehensive program to provide for the proper handling
26 of yard waste, lead-acid batteries, tires and covered
27 electronic devices.

28 (f) The secretary shall promulgate rules, in accordance
29 with chapter twenty-nine-a of this code, to implement and
30 enforce the program for yard waste, lead-acid batteries,

31 tires and covered electronic devices designed pursuant to
32 subsection (d).

33 (g) The secretary's rule shall provide for the disposal of
34 yard waste in a manner consistent with one or any combi-
35 nation of the following:

36 (1) Disposal in a publicly or privately operated commer-
37 cial or noncommercial composting facility;

38 (2) Disposal by composting on the property from which
39 domestic yard waste is generated or on adjoining property
40 or neighborhood property if consent is obtained from the
41 owner of the adjoining or neighborhood property;

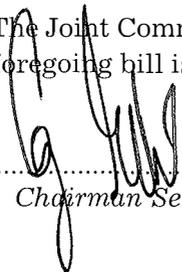
42 (3) Disposal by open burning, where not prohibited; or

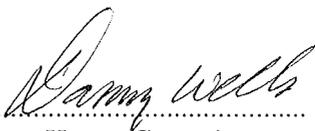
43 (4) Disposal in a publicly or privately operated landfill,
44 only where none of the foregoing options are available.
45 The manner of disposal shall only involve small quantities
46 of domestic yard waste generated only from the property
47 of the participating resident or tenant.



Enr. Com. Sub. for Com. Sub. for S. B. No. 398] 8

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

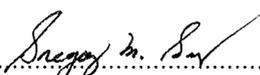

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Chairman Senate Committee

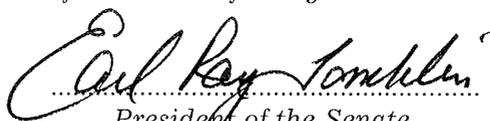

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within *is approved* this the *24th*
of
Day of *March* 2010.


.....
Governor

PRESENTED TO THE
GOVERNOR

MAR 23 2010

Time 11:40am