

1 **Senate Bill No. 633**

2 (By Senators Chafin, Kessler (Mr. President), Edgell, Green, D.
3 Hall, M. Hall, Laird, Miller and Plymale)

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5 [Introduced March 25, 2013; referred to the Committee on
6 Government Organization; and then to the Committee on the
7 Judiciary.]
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11 A BILL to amend and reenact §17-23-4 of the Code of West Virginia,
12 1931, as amended, relating to roads and highways; and
13 residential community waivers for salvage yards.

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

15 That §17-23-4 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

17 **ARTICLE 23. SALVAGE YARDS.**

18 **§17-23-4. Areas where establishment prohibited; screening**
19 **requirements; existing licensed yards; approval**
20 **permit required; issuance; county planning**
21 **commission criteria satisfied; fee.**

22 (a) On and after the effective date of this article: (1) No
23 license shall be issued to establish a salvage yard or any part
24 thereof within one thousand feet of the nearest edge of the right-

1 of-way of any road within the state road system designated and
2 classified or redesignated and reclassified as expressway,
3 trunkline or feeder, or any road within the state road system
4 designated and classified or redesignated and reclassified for
5 purposes of allocation of federal highway funds as part of the
6 federal-aid interstate or primary systems: *Provided*, That this
7 limitation shall not apply to landfills established and maintained
8 by the state or any county or municipality if such landfill is
9 effectively screened and obscured by natural objects, plantings,
10 fences or other appropriate means so as not to be visible from the
11 main traveled way of the system; and (2) no license shall be issued
12 to establish a salvage yard or any part thereof within five hundred
13 feet of the nearest edge of the right-of-way of any state local
14 service road, unless the view thereof from such state local service
15 road shall be effectively screened and obscured by fences:
16 *Provided, however*, That this limitation shall not apply to
17 landfills established and maintained by the state or any county or
18 municipality if such landfill is effectively screened and obscured
19 by natural objects, plantings, fences or other appropriate means so
20 as not to be visible from the main traveled way of the system; and
21 (3) no license may be issued allowing a salvage yard within one
22 thousand feet of the nearest occupied private residence, unless
23 waived by the owner of such residence, or within five thousand feet
24 of the nearest occupied private residence which is part of a

1 residential community unless a waiver is received from each
2 residence which is a part of the residential community. The
3 provisions of this paragraph, as amended, shall apply only to
4 salvage yards licensed after April 1, 1988.

5 (b) The license of any salvage yard duly issued under the
6 former provisions of this article, which salvage yard or any part
7 thereof on the effective date of this article, is: (1) Within one
8 thousand feet of the nearest edge of the right-of-way of any road
9 within the state road system designated and classified or
10 redesignated and reclassified as expressway, trunkline or feeder,
11 or any road within the state road system designated and classified
12 or redesignated and reclassified for purposes of allocation of
13 federal highway funds as part of the federal-aid interstate or
14 primary systems; or is (2) within five hundred feet of the nearest
15 edge of the right-of-way of any state local service road; or is (3)
16 within one thousand feet of the nearest occupied private residence
17 or within five thousand feet of the nearest occupied private
18 residence which is part of a residential community, may be renewed
19 only if the view of the said salvage yard and all parts thereof are
20 effectively screened from the adjacent road by natural objects,
21 plantings, fences or other appropriate means or a waiver is
22 obtained from the owner of an occupied private residence. The
23 provisions of this paragraph, as amended, shall apply only to
24 salvage yards licensed after April 1, 1988.

1 (c) Any salvage yard which, on the effective date of this
2 article, is duly licensed under the former provisions of this
3 article may be established or continue to be operated and
4 maintained without screening by natural objects, plantings, fences
5 or other appropriate means so long as any part of such salvage yard
6 is: (1) Not located within one thousand feet of any road within
7 the state road system designated and classified or redesignated and
8 reclassified as expressway, trunkline or feeder, or any road within
9 the state road system designated and classified or redesignated and
10 reclassified for the purposes of allocation of federal highway
11 funds as part of the federal-aid interstate or primary systems; or
12 is (2) not located within five hundred feet of the nearest edge of
13 the right-of-way of any state local service road; or is (3) not
14 located within one thousand feet of the nearest residence or within
15 five thousand feet of the nearest occupied private residence which
16 is part of a residential community. Notwithstanding any other
17 provision of this section to the contrary, ownership of a salvage
18 yard duly licensed under the former provisions of this article and
19 continuously maintained and licensed since July 1, 1998, may be
20 sold or otherwise transferred, and the salvage yard shall be
21 eligible for relicensure and may continue to be operated under the
22 same legal requirements that would have been applicable had the
23 change in ownership not occurred.

24 (d) On or after July 1, 1984, any owner or operator

1 establishing, operating or maintaining a salvage yard for which a
2 license is required under the provisions of this article is hereby
3 required to first obtain an approval permit from the county
4 planning commission, or if the county does not have a county
5 planning commission, from an appropriate office or agency
6 designated by the county commission, in which the salvage yard is
7 located. The county planning commission or designated agency or
8 office shall promulgate such reasonable rules including, but not
9 limited to, determining the effect of the proposed salvage yard on
10 residential, business or commercial property investment and values,
11 establishing a quota for the number of salvage yards in the county,
12 and the social, economic and environmental impact on community
13 growth and development in utilities, health, education, recreation,
14 safety, welfare and convenience, if any, before issuing such
15 approval permit. These rules shall conform to guidelines
16 established in rules promulgated by the commissioner. The fee for
17 the approval permit shall be \$25, payable upon the filing of the
18 application on forms to be designated and approved by the county
19 planning commission or designated office or agency.

20 (e) Upon the granting of an approval permit by the county
21 planning commission, the owner or operator shall then apply to the
22 commissioner for a license to operate. The commissioner may issue
23 a license to the applicant, but only after an approval permit has
24 issued in the first instance and the location of the salvage yard

1 is in compliance with the location requirements of section four of
2 this article. The approval permit requirement of this section does
3 not apply to any owner or operator who has established, or is
4 operating or maintaining, a salvage yard prior to July 1, 1984.

NOTE: The purpose of this bill is to provide that residents in a residential community can waive the prohibition against the establishment of a salvage yard near their residential community.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.