

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4503

BY DELEGATE BUTLER

(BY REQUEST OF THE DIVISION OF HIGHWAYS)

[Introduced January 23, 2020; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §17-23-4 of the Code of West Virginia, 1931, as amended, relating
 2 to conforming West Virginia law to federal distance requirements for location of salvage
 3 yards within 1,000 feet of an occupied private residence in a residential community; and
 4 removing outdated terminology.

Be it enacted by the Legislature of West Virginia:

ARTICLE 23. SALVAGE YARDS.

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

1 (a) On and after the effective date of this article: (1) No license shall be issued to establish
 2 a salvage yard or any part thereof within 1,000 feet of the nearest edge of the right-of-way of any
 3 road within the state road system ~~designated and classified or redesignated and reclassified as~~
 4 ~~expressway, trunkline or feeder, or any road within the state road system designated and~~
 5 ~~classified or redesignated and reclassified~~ for purposes of allocation of federal highway funds as
 6 part of the federal-aid interstate or primary systems and is visible from the main traveled way;
 7 ~~Provided, That this limitation shall not apply to landfills established and maintained by the state~~
 8 ~~or any county or municipality if such landfill is effectively screened and obscured by natural~~
 9 ~~objects, plantings, fences or other appropriate means so as not to be visible from the main~~
 10 ~~traveled way of the system;~~ and (2) no license shall be issued to establish a salvage yard or any
 11 part thereof within 500 feet of the nearest edge of the right-of-way of any ~~state local service road~~
 12 route which is part of the state road system, excluding those routes classified as federal-aid
 13 interstate or federal-aid primary, unless the view thereof ~~from such state local service road shall~~
 14 ~~be~~ is effectively screened and obscured by fences ~~Provided, however, That this limitation shall~~
 15 ~~not apply to landfills established and maintained by the state or any county or municipality if such~~
 16 ~~landfill is effectively screened and obscured by natural objects, plantings, fences or other~~
 17 ~~appropriate means so as not to be visible from the main traveled way of the system~~ and (3) no

18 license may be issued allowing a salvage yard within ~~five thousand~~ 1,000 feet of the nearest
19 occupied private residence, unless waived by the owner of such residence, or within 1,000 feet
20 of the nearest occupied private residence which is part of a residential community. ~~The provisions~~
21 ~~of this paragraph, as amended, shall apply only to salvage yards licensed after April 1, 1988.~~

22 (b) The license of any salvage yard duly issued under the former provisions of this article,
23 which salvage yard or any part thereof on the effective date of this article, is: (1) Within 1,000 feet
24 of the nearest edge of the right-of-way of any road within the state road system ~~designated and~~
25 ~~classified or redesignated and reclassified as expressway, trunkline or feeder, or any road within~~
26 ~~the state road system designated and classified or redesignated and reclassified~~ classified for
27 purposes of allocation of federal highway funds as part of the federal-aid interstate or primary
28 systems and is visible from the main traveled way; or is (2) within 500 feet of the nearest edge of
29 the right-of-way of any ~~state local service~~ road which is part of the state road system, excluding
30 those routes classified as federal-aid interstate or federal-aid primary; or is (3) within 1,000 feet
31 of the nearest occupied private residence or within ~~five thousand~~ 1,000 feet of the nearest
32 occupied private residence which is part of a residential community, may be renewed only if the
33 view of the ~~said~~ salvage yard and all parts thereof are effectively screened from the adjacent road
34 by natural objects, plantings, fences or other appropriate means or a waiver is obtained from the
35 owner of an occupied private residence: ~~The provisions of this paragraph, as amended, shall~~
36 ~~apply only to salvage yards licensed after April 1, 1988~~ Provided, That for any salvage yard
37 licensed prior to July 1, 1967, and continuously maintained, may continue to operate without
38 screening so long as the salvage yard is not located within 1,000 feet of any road in the state road
39 system classified for the purpose of allocation of federal highway funds as part of the federal-aid
40 interstate or federal-aid primary systems.

41 (c) ~~Any salvage yard which, on the effective date of this article, is duly licensed under the~~
42 ~~former provisions of this article may be established or continue to be operated and maintained~~
43 ~~without screening by natural objects, plantings, fences or other appropriate means so long as any~~

44 ~~part of such salvage yard is: (1) Not located within one thousand feet of any road within the state~~
45 ~~road system designated and classified or redesignated and reclassified as expressway, trunkline~~
46 ~~or feeder, or any road within the state road system designated and classified or redesignated and~~
47 ~~reclassified for the purposes of allocation of federal highway funds as part of the federal-aid~~
48 ~~interstate or primary systems; or is (2) not located within five hundred feet of the nearest edge of~~
49 ~~the right-of-way of any state local service road; or is (3) not located within one thousand feet of~~
50 ~~the nearest residence or within five thousand feet of the nearest occupied private residence which~~
51 ~~is part of a residential community~~ Notwithstanding any other provision of this section to the
52 contrary, ownership of a salvage yard duly licensed under the former provisions of this article and
53 continuously maintained and licensed since July 1, 1998 may be sold or otherwise transferred,
54 and the salvage yard shall be eligible for ~~relicensure~~ licensure and may continue to be operated
55 under the same legal requirements that would have been applicable had the change in ownership
56 not occurred.

57 (d) On or after July 1, 1984, any owner or operator establishing, operating or maintaining
58 a salvage yard for which a license is required under the provisions of this article is hereby required
59 to first obtain an approval permit from the county planning commission, or if the county does not
60 have a county planning commission, from an appropriate office or agency designated by the
61 county commission, in which the salvage yard is located. The county planning commission or
62 designated agency or office shall promulgate such reasonable rules including, but not limited to,
63 determining the effect of the proposed salvage yard on residential, business or commercial
64 property investment and values, establishing a quota for the number of salvage yards in the
65 county, and the social, economic and environmental impact on community growth and
66 development in utilities, health, education, recreation, safety, welfare and convenience, if any,
67 before issuing such approval permit. These rules shall conform to guidelines established in rules
68 promulgated by the commissioner. The fee for the approval permit shall be \$25, payable upon
69 the filing of the application on forms to be designated and approved by the county planning

70 commission or designated office or agency.

71 (e) Upon the granting of an approval permit by the county planning commission, the owner
72 or operator shall then apply to the commissioner for a license to operate. The commissioner may
73 issue a license to the applicant, but only after an approval permit has issued in the first instance
74 and the location of the salvage yard is in compliance with the location requirements of section
75 four of this article. The approval permit requirement of this section does not apply to any owner
76 or operator who has established, or is operating or maintaining, a salvage yard prior to July 1,
77 1984.

NOTE: The purpose of this bill is to match distance requirements of West Virginia law with federal requirements for location of salvage yards within 1,000 feet of an occupied private residence in a residential community. Stylistic changes were made to change written numbers to numbers throughout the section. The substantive change from 5,000 to 1,000 feet is noted with strike-throughs and underscoring.

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