

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 618

BY SENATORS CLEMENTS, SWOPE, CLINE, AND PLYMALE

[Introduced January 24, 2020; referred
to the Committee on Transportation and
Infrastructure]

1 A BILL to amend and reenact §17-23-4 of the Code of West Virginia, 1931, as amended,
2 relating to conforming West Virginia law to federal distance requirements for location of
3 salvage yards within 1,000 feet of an occupied private residence in a residential
4 community; and removing outdated terminology.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
2 establish a salvage yard or any part thereof within 1,000 feet of the nearest edge of the right-of-
3 way of any road within the state road system ~~designated and classified or redesignated and~~
4 ~~reclassified as expressway, trunkline or feeder, or any road within the state road system~~
5 ~~designated and classified or redesignated and reclassified~~ for purposes of allocation of federal
6 highway funds as part of the federal-aid interstate or primary systems and is visible from the
7 main traveled way; *Provided*, That this limitation shall not apply to landfills established and
8 maintained by the state or any county or municipality if such landfill is effectively screened and
9 obscured by natural objects, plantings, fences or other appropriate means so as not to be visible
10 from the main traveled way of the system; and (2) no license shall be issued to establish a
11 salvage yard or any part thereof within 500 feet of the nearest edge of the right-of-way of any
12 state local service road route which is part of the state road system, excluding those routes
13 classified as federal-aid interstate or federal-aid primary, unless the view thereof from such state
14 local service road shall be is effectively screened and obscured by fences; *Provided, however*,
15 That this limitation shall not apply to landfills established and maintained by the state or any
16 county or municipality if such landfill is effectively screened and obscured by natural objects,
17 plantings, fences or other appropriate means so as not to be visible from the main traveled way

18 ~~of the system~~ and (3) no license may be issued allowing a salvage yard within ~~five thousand~~
19 1,000 feet of the nearest occupied private residence, unless waived by the owner of such
20 residence, or within 1,000 feet of the nearest occupied private residence which is part of a
21 residential community. ~~The provisions of this paragraph, as amended, shall apply only to~~
22 ~~salvage yards licensed after April 1, 1988.~~

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

42 (c) ~~Any salvage yard which, on the effective date of this article, is duly licensed under the~~
43 ~~former provisions of this article may be established or continue to be operated and maintained~~

44 ~~without screening by natural objects, plantings, fences or other appropriate means so long as~~
45 ~~any part of such salvage yard is: (1) Not located within one thousand feet of any road within the~~
46 ~~state road system designated and classified or redesignated and reclassified as expressway,~~
47 ~~trunkline or feeder, or any road within the state road system designated and classified or~~
48 ~~redesignated and reclassified for the purposes of allocation of federal highway funds as part of~~
49 ~~the federal aid interstate or primary systems; or is (2) not located within five hundred feet of the~~
50 ~~nearest edge of the right of way of any state local service road; or is (3) not located within one~~
51 ~~thousand feet of the nearest residence or within five thousand feet of the nearest occupied~~
52 ~~private residence which is part of a residential community~~ Notwithstanding any other provision
53 of this section to the contrary, ownership of a salvage yard duly licensed under the former
54 provisions of this article and continuously maintained and licensed since July 1, 1998 may be
55 sold or otherwise transferred, and the salvage yard shall be eligible for ~~relicensure~~ licensure and
56 may continue to be operated under the same legal requirements that would have been
57 applicable had the change in ownership not occurred.

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

70 upon the filing of the application on forms to be designated and approved by the county
71 planning commission or designated office or agency.

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