

No. 1977-28

## AN ACT

HB 609

Amending the act of July 28, 1966 (3rd Sp.Sess., P.L.91, No.4), entitled "An act restricting the establishment and maintenance of junkyards along highways; providing for the screening of outdoor junkyards; prescribing a license fee; conferring powers and imposing duties on the Secretary of Highways; providing authority to take property by eminent domain for the screening or removal of junkyards in certain cases; making an appropriation; and providing penalties," adding the term "automotive dismantler and recycler," changing certain references, further providing for licenses, license fees, the screening of vehicles, the imposition of fines and penalties and making certain editorial changes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title, section 1, clauses (2) and (7) of section 2, and sections 3, 4, 6, 7, 9, 10, 11, 12 and 13, act of July 28, 1966 (3rd Sp.Sess., P.L.91, No.4), entitled "An act restricting the establishment and maintenance of junkyards along highways; providing for the screening of outdoor junkyards; prescribing a license fee; conferring powers and imposing duties on the Secretary of Highways; providing authority to take property by eminent domain for the screening or removal of junkyards in certain cases; making an appropriation; and providing penalties," are amended, and section 2 is amended by adding a clause, to read:

## AN ACT

Restricting the establishment and maintenance of junkyards *and automotive dismantlers and recyclers* along highways; providing for the screening of outdoor junkyards *and automotive dismantlers and recyclers*<sup>1</sup>; prescribing a license fee; conferring powers and imposing duties on the Secretary of ~~[Highways]~~ *Transportation*; providing authority to take property by eminent domain ~~[for the screening or removal of junkyards]~~ in certain cases; making an appropriation; and providing penalties.

Section 1. The General Assembly finds that it is in the public interest and for the public welfare to regulate the location and maintenance of junkyards *and automotive dismantlers and recyclers* adjacent to the highways of the Commonwealth in order to promote the safety, convenience and enjoyment of public travel, to preserve the scenic beauty of lands bordering on such highways and to protect the public investment in such highways.

Section 2. As used in this act, the terms:

\* \* \*

<sup>1</sup>"automotive dismantlers and recyclers" omitted in original.

(2) "Highway" shall mean a highway within this Commonwealth designated by the Secretary of [**Highways**] *Transportation*, and approved by the United States Secretary of [**Commerce**] *Transportation*, as part of the Interstate System or primary system, pursuant to Title 23, United States Code, "Highways."

\* \* \*

**(4.1)** "*Automotive dismantler and recycler*" shall mean any establishment or place of business which is maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles, or motor vehicle parts, or both.

\* \* \*

(7) "Secretary" shall mean the Secretary of [**Highways**] *Transportation*.

Section 3. No person shall establish, maintain, use or operate a junkyard *or automotive dismantler and recycler*, any portion of which is within one thousand feet of the nearest edge of the right-of-way of a highway, without having obtained a valid license therefor from the secretary. Each license shall be valid for one year ending December thirty-first. The fee for each license shall be [**fifty dollars (\$50)**] *one hundred dollars (\$100)*.

Section 4. No license shall be granted for the establishment, maintenance, use or operation of a junkyard *or automotive dismantler and recycler* within one thousand feet of the nearest edge of the right-of-way of any highway except the following:

(a) Junkyards *and automotive dismantlers and recyclers* which are lawfully in existence [**on the effective date of this section**] *prior to January 1, 1967*.

(b) Junkyards *and automotive dismantlers and recyclers* which, because of screening by natural objects, plantings, fences, or other means found appropriate by the secretary, are not visible from the main-traveled way of the highway.

(c) Junkyards *and automotive dismantlers and recyclers* [**and scrap metal processing facilities**] located within areas zoned for industrial use under authority of law.

(d) Junkyards *and automotive dismantlers and recyclers* [**and scrap metal processing facilities**] located within unzoned areas which the secretary shall find are used for industrial activities.

Section 6. Any junkyard *or automotive dismantler and recycler* lawfully in existence on [**the effective date of this section**] *January 1, 1967* which is within one thousand feet of the nearest edge of the right-of-way of a highway, and which is not in any of the classes specified in subsections (b), (c) and (d) of section 4, shall be screened, if physically and economically feasible, by the secretary at locations on the highway right-of-way or in areas acquired for such purposes outside the right-of-way, so as not to be

visible from the main-traveled way of the highway. ***No junk or any other motor vehicle incapable of meeting State inspection requirements shall be placed between the highway and the screening.***

Section 7. Whenever the secretary shall determine that the screening prescribed by section 6 for an existing junkyard ***or automotive dismantler and recycler*** is not physically or economically feasible, he shall have authority to remove, relocate or dispose of the junkyard ***or automotive dismantler and recycler***.

Section 9. The secretary may apply to any court of competent jurisdiction for an injunction to enjoin any junkyard ***or automotive dismantler and recycler*** not conforming to the requirements of this act.

Section 10. Nothing in this act shall be deemed to preclude any political subdivision from enacting or enforcing a requirement that junkyards ***and automotive dismantlers and recyclers*** be licensed, or from enacting or enforcing regulations applicable to junkyards ***and automotive dismantlers and recyclers*** more than one thousand feet from the nearest edge of a highway.

Section 11. (a) Any person responsible for the establishment, maintenance, use or operation of a junkyard ***or automotive dismantler and recycler*** in violation of this act or of the rules and regulations of the Secretary of [Highways] ***Transportation***, and any person knowingly suffering such junkyard ***or automotive dismantler and recycler*** to be established or maintained on his property shall, upon summary conviction thereof, be sentenced to pay a fine of ***not less than one hundred dollars (\$100), nor more than three hundred dollars (\$300)***, to be paid into the Highway Beautification Fund, and, in default of the payment thereof, shall undergo imprisonment for thirty days.

(b) Whenever the secretary has given written notice that a junkyard ***or automotive dismantler and recycler*** is maintained or used in violation of this act, each day of such maintenance or use beginning with the thirty-first day following receipt of such notice shall constitute a separate offense.

Section 12. The secretary is hereby authorized to enter into agreements with the United States Secretary of [Commerce] ***Transportation*** as provided by Title 23, United States Code, "Highways", relating to the control of junkyards in areas adjacent to the interstate and primary systems, and to take action in the name of the Commonwealth to comply with the terms of such agreements.

Section 13. All fees for licenses paid pursuant to section 3, all fines paid pursuant to section 11, and all Federal funds received by the Commonwealth in aid of landscaping and screening costs, and of compensation to owners for the relocation, removal or disposal of junkyards ***and automotive dismantlers and recyclers***, to accomplish the control of junkyards pursuant to Title 23, United States Code, "Highways", shall be paid into and credited to the Highway Beautification Fund. All costs incurred by the secretary pursuant to this act shall be paid from the Highway Beautification Fund, and as much moneys as the

secretary shall deem necessary are hereby specifically appropriated from such fund to the Department of **[Highways] Transportation.**

Section 2. This act shall take effect in 60 days.

APPROVED—The 13th day of July, A. D. 1977.

MILTON J. SHAPP