

LEGISLATIVE BILL 398

Approved by the Governor April 26, 1971

Introduced by Leslie A. Stull, 49th District

AN ACT relating to highways; to provide for regulation of junkyards along certain highways; to define terms; to provide procedure for licensing of junkyards; to make operation of a junkyard without a license a misdemeanor; to provide enforcement; and to provide for civil remedies and criminal penalties.

Be it enacted by the people of the State of Nebraska,

Section 1. For the purpose of promoting the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, and to preserve and enhance the scenic beauty of lands bordering public highways, it is declared to be in the public interest to regulate and restrict the location and maintenance of junkyards in areas adjacent to any interstate or primary highway within this state. The Legislature finds and declares that junkyards which do not conform to the requirements of this act are public nuisances.

Sec. 2. For purposes of this act, unless the context otherwise requires:

(1) Junk shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material;

(2) Automobile graveyard shall mean any establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts;

(3) Junkyard shall mean an establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk or for the maintenance or operation of an automobile graveyard, and includes garbage dumps and sanitary fills;

(4) Interstate highway shall mean a portion of the National System of Interstate and Defense Highways;

(5) Primary highway shall mean the federal aid primary system of highways and state highways;

(6) Main-traveled way shall mean the traveled portion of an interstate or primary highway on which through traffic is carried and, in the case of a divided highway, the traveled portion of each of the separated roadways;

(7) Person shall mean any natural person, partnership, association, corporation or governmental subdivision; and

(8) Department shall mean the Department of Roads.

Sec. 3. No person shall locate or maintain a junkyard, any portion of which is within one thousand feet of the nearest edge of the right-of-way of any interstate or primary highway, without obtaining a permit from the department.

Sec. 4. The department may issue permits for the location and operation of junkyards within the limits herein defined and shall charge therefor an annual fee to be paid to the department in the manner provided by the department and shall thereafter be paid into the Highway Cash Fund. The department shall by order adjust the annual fees to cover the costs of administering the provisions of this act.

Sec. 5. No permit shall be granted for the location and maintenance of a junkyard within one thousand feet of the nearest edge of the right-of-way of any interstate or primary highway except the following:

(1) Those which are screened by natural objects, plantings, fences or other appropriate means so as not to be visible from the main-traveled way of the system, or otherwise removed from sight;

(2) Those located within areas which are zoned for industrial use under authority of the law of a municipality or county;

(3) Those located within unzoned industrial areas, which areas shall be determined from actual land uses and defined by rules to be promulgated by the department; and

(4) Those which are not visible from the main-traveled way of the system.

Sec. 6. Any junkyard lawfully in existence on the effective date of this act which is within one thousand feet of the nearest edge of the right-of-way and visible from the main-traveled way of any interstate or primary highway shall be screened by the department so as not to be visible from the main-traveled way of such highway, the cost of which shall be paid in full by the department.

Sec. 7. The department may promulgate rules governing the materials, location, planting, construction and maintenance for the screening or fencing required by the provisions of this act.

Sec. 8. The department may acquire by gift, purchase, exchange or condemnation from the owner, such interests in lands as may be necessary to acquire the location, or to effect the removal or disposal of junkyards lawfully in existence along any interstate or primary highway on or after the effective date of this act when it determines that the topography of the land adjoining such highway will not permit adequate screening of such junkyards or the screening of such junkyards would not be practical.

Sec. 9. The department may apply to the district court in the county in which such junkyards may be located for an injunction to abate such nuisance or for such other relief as may be necessary or proper.

Sec. 10. Nothing in this act shall be construed to abrogate or affect the provisions of any lawful ordinance, regulation or resolution which is more restrictive than this act.

Sec. 11. The department shall be authorized to enter into agreements with the appropriate federal authority as provided by Title 23, United States Code, relating to the control of junkyards in areas adjacent to any interstate or primary highway, and to take action in the name of the state to comply with the terms of such agreement.

Sec. 12. Any person who shall be found in violation of section 3 of this act shall be guilty of a misdemeanor, and shall be fined not less than one hundred dollars nor more than five hundred dollars, or shall be sentenced to imprisonment in the county jail for not more than six months, or be both so fined and imprisoned; Provided, each day's violation shall constitute a separate offense.