

1975 Senate Bill 753

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CHAPTER 340, Laws of 1975

AN ACT to amend 20.395 (4) (q) (intro.) and 84.30 (3) (intro.) and (4) (d) 2; and to create 84.30 (2) (fm) and (km) and (3) (f), (g) and (h) and 84.31 of the statutes, relating to expanding regulation of outdoor advertising and regulation of junkyards in areas adjacent to interstate and primary highways, granting rule-making authority and increasing an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.395 (4) (q) (intro.) of the statutes, as affected by chapter 39, laws of 1975, is amended to read:

20.395 (4) (q) (intro.) *General program operations, highways.* As a continuing appropriation after deducting the amount as determined under subd. 1 and the amounts appropriated under subs. (1) (r) to (rd) and (3) (q) and (qa), the amounts determined in subds. 2 to 7 to administer the highway transportation facility development and improvement program, including the development, acquisition, construction, enlargement or improvement of state trunk highways and connecting streets and related functions specified in ss. 84.01 (5) and (18), 84.03 (6) and (9), 84.09, 84.20, 84.30, 84.31 and 196.85 (2) (b):

SECTION 2. 84.30 (2) (fm) and (km) of the statutes are created to read:

84.30 (2) (fm) "Landmark sign" means a sign of historic or artistic significance, the preservation of which is consistent with the purposes of this section, as determined by the commission, including signs on farm structures or natural surfaces.

(km) "Urban area" means any area which is an urbanized area or urban place, as determined by the commission under 23 U.S.C. 101 (a) and regulations adopted thereunder and approved by the appropriate federal authority. Maps of urban area boundaries shall be available for inspection at offices of the commission and copies of such maps shall be provided at cost to anyone requesting the same.

SECTION 3. 84.30 (3) (intro.) of the statutes is amended to read:

84.30 (3) (intro.) SIGNS PROHIBITED. No sign shall, ~~subject to sub. (4), visible from the main-traveled way of any interstate or federal-aid highway may~~ be erected or maintained in an adjacent area after March 18, 1972, or outside the adjacent area after the effective date of this act (1975), except the following:

SECTION 4. 84.30 (3) (f), (g) and (h) of the statutes are created to read:

84.30 (3) (f) Signs located in urban areas outside the adjacent area.

(g) Landmark signs lawfully in existence on October 22, 1965.

(h) Signs outside the adjacent area which are not erected with the purpose of their message being read from the main-traveled way of an interstate or primary highway.

SECTION 5. 84.30 (4) (d) 2 of the statutes is amended to read:

84.30 (4) (d) 2. Signs shall not be erected or maintained upon trees, or painted or drawn upon rocks or other natural features, except landmark signs.

SECTION 6. 84.31 of the statutes is created to read:

84.31 Regulation of junkyards. (1) **DECLARATION OF PURPOSE:** PUBLIC NUISANCES. In order to promote the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, to preserve and enhance the scenic beauty of lands bordering public highways, to attract tourists and promote the prosperity, economic well-being and general welfare of the state, it is declared to be in the public interest to regulate and restrict the establishment, operation and maintenance of junkyards in areas adjacent to interstate and primary highways within this state. All junkyards in violation of this section are declared public nuisances.

(2) **DEFINITIONS.** In this section:

(a) "Automobile graveyard" means an 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. Ten or more such vehicles constitute an automobile graveyard.

(am) "Department" means the department of transportation.

(b) "Illegal junkyard" means a junkyard which is established, expanded or maintained in violation of any statute or rule promulgated thereunder or local ordinance.

(c) "Industrial activities" mean those activities generally recognized as industrial by local zoning authorities in this state, including scrap metal processors, except that none of the following activities shall be considered industrial:

1. Agricultural, forestry, ranching, grazing, farming and similar activities, including, but not limited to wayside fresh produce stands.
2. Activities normally or regularly in operation less than 3 months of the year.
3. Transient or temporary activities.
4. Activities not visible from the main-traveled way.
5. Activities more than 300 feet from the nearest edge of the right-of-way.
6. Railroad tracks and minor sidings.
7. Activities conducted in structures which are principally used for residential purposes.
8. Junkyards, excluding scrap metal processors.

(d) "Interstate highway" means any highway at any time officially designated as a part of the national system of interstate and defense highways by the commission and approved by the appropriate authority of the federal government.

(e) "Junk" means any old or scrap metal, metal alloy, synthetic or organic material, or waste, or any junked, ruined, dismantled or wrecked motor vehicle or machinery, or any part thereof.

(f) "Junkyard" means any place which is owned, maintained, operated or used for storing, keeping, processing, buying or selling junk, including refuse dumps, garbage dumps, automobile graveyards, scrap metal processors, auto-wrecking yards, salvage yards, auto-recycling yards, used auto parts yards and temporary storage of automobile bodies or parts awaiting disposal as a normal part of a business operation when the business will continually have like materials located on the premises, and sanitary landfills. The definition does not include litter, trash, and other debris scattered along or upon the highway, or temporary operations and outdoor storage of limited duration.

(g) "Primary highway" means any highway, other than an interstate highway, at any time officially designated as part of the federal-aid primary system by the highway commission and approved by the appropriate authority of the federal government.

(h) "Screened" means hidden from view in a manner compatible with the surrounding environment.

(i) "Scrap metal processor" means a fixed location at which machinery and equipment are utilized for the processing and manufacturing of iron, steel or nonferrous metallic scrap into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metal scrap for sale for remelting purposes.

(j) "Unzoned industrial areas" mean those areas which are not zoned by state law or local ordinance, and on which there is located one or more permanent structures devoted to an industrial activity other than scrap metal processing or on which an industrial activity other than scrap metal processing, is actually conducted whether or not a permanent structure is located thereon, and the area along the highway extending outward 800 feet from and beyond the edge of such activity. Each side of the highway will be considered separately in applying this definition. All measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing and landscaped areas of the industrial activities, not from the property lines of the activities, and shall be along or parallel to the edge or pavement of the highway.

(k) "Zoned" includes the establishment of districts without restrictions on use.

(L) "Zoned industrial area" means any area zoned industrial by a state law or local ordinance.

(3) JUNKYARDS; PROHIBITION; EXCEPTIONS. No person may own, establish, expand or maintain a junkyard, any portion of which is within 1,000 feet of the nearest edge of the right-of-way of any interstate or primary highway, except the following:

(a) Those which are not visible from the main-traveled way of an interstate or primary highway.

(b) Those which are screened so as not to be visible from the main-traveled way of an interstate or primary highway.

(c) Those which are located in a zoned or unzoned industrial area.

(4) NONCONFORMING JUNKYARDS; SCREENING; REMOVAL. (a) A nonconforming junkyard is any junkyard which:

1. Was lawfully established and maintained prior to the effective date of this act (1975) but which does not comply with this section or rules adopted under this section. A junkyard shall be considered nonconforming under this section even if it was maintained in violation of rules related to screening adopted under s. 144.43.

2. Is lawfully established on or after the effective date of this act (1975), but which subsequently does not comply with this section or rules adopted under this section.

(b) A junkyard has a nonconforming status only to the extent that it is not in compliance with this section or rules adopted under this section or rules related to screening adopted under s. 144.43 at the time this section or rules adopted under it or under s. 144.43 become applicable to the junkyard. A junkyard retains its nonconforming status as long as it is not abandoned, destroyed or discontinued, or extended, enlarged or substantially changed, or otherwise altered so as to be in violation of any state statute or rule or local ordinance. A junkyard is presumed to be abandoned if inactive for more than one year.

(c) Every nonconforming junkyard shall be screened, relocated, removed or disposed of within 5 years after it becomes nonconforming. The department shall

cause nonconforming junkyards to be screened, relocated, removed or disposed of in accordance with this section and rules adopted under this section.

(d) The department may contract for such services and acquire such property or interests therein as are necessary to accomplish the screening, relocation, removal or disposal of a nonconforming junkyard. Acquisition may be by gift, purchase, exchange or the power of eminent domain under ch. 32. Acquired property may be sold or otherwise disposed of by the department as it deems proper. Disposal of property acquired under this section is not subject to approval by the governor or other state agency.

(e) If a junkyard is screened by the department, the department shall retain title to the screening material where practicable, but the owner and operator of the junkyard shall maintain the screening. Any owner or operator who fails to maintain the screening is subject to the penalty under sub. (6) (c).

(5) AVAILABILITY OF FUNDS. Any other provision of this section to the contrary notwithstanding, no nonconforming junkyard is required to be screened, relocated, removed or disposed of by the department unless there are sufficient state funds appropriated and available to the department for such purposes and unless federal funds have been appropriated and are immediately available to the state for the purpose of federal participation required under 23 U.S.C. 136.

(6) ILLEGAL JUNKYARDS. (a) If a junkyard is an illegal junkyard but not a nonconforming junkyard, the department shall give the owner or operator thereof notice of the illegal status of the junkyard. The notice shall specify the respects in which the junkyard is illegal and shall state that unless the junkyard is brought into compliance with the law within 30 days at the expense of the owner or operator, the department shall take one or more of the courses of action authorized in par. (b). The notice shall inform the owner or operator that if he or she requests a hearing on the matter in writing within the 30-day period, a hearing shall be conducted under s. 227.07.

(b) If the owner or operator of a junkyard is given notice under par. (a) and does not bring the junkyard into compliance within 30 days and a hearing is not requested, or does not bring the junkyard into compliance after a hearing on the matter and a determination that compliance is required, the department may, in addition to any other remedies available under law:

1. Petition a court of appropriate jurisdiction to, and such court shall, issue an order compelling compliance.
2. Enter upon the land where the junkyard is located and relocate, remove or dispose of the junkyard and collect the cost of relocation, removal or disposal from the owner or operator of the junkyard, who shall be jointly and severally liable for such costs.
3. Request the district attorney to commence an action to collect the forfeiture under par. (c).

(c) Any person who owns, establishes or maintains a junkyard in violation of this section or any rule adopted under this section and which is not a nonconforming junkyard may be required to forfeit not less than \$25 nor more than \$1,000 for each offense. Each day in violation constitutes a separate offense.

(7) RULES. The department may adopt rules to accomplish the purposes of this section and to comply with the requirements of 23 U.S.C. 136, as amended, and rules and guidelines adopted thereunder. In interpreting this section, the department may be guided by federal law and interpretations approved by appropriate authorities of the federal government.

(8) **AGREEMENTS.** (a) The department may enter into agreements with the designated authority of the federal government relating to the control of junkyards and may take such action as is necessary to comply with the terms of such agreements.

(b) The department and another state agency may enter into agreements for the purpose of assigning to the other state agency the responsibility for the administration of this section and rules adopted under this section. To the extent responsibility for administration is assigned to the other agency under such agreements, the other state agency shall have the same powers and duties conferred on the department under this section. The department shall reimburse the other state agency from the appropriation under s. 20.395 (4) (q) (intro.) for all expenses, including administrative expenses, incurred by the other state agency in connection with the screening, relocation, removal or disposal of junkyards under the authority assigned to the other state agency.

(9) **OTHER LAWS.** Nothing in this section shall be construed to abrogate or affect any law or ordinance which is more restrictive than this section. The provisions of this section are in addition to and do not supersede the requirements under ss. 59.07 (38), 144.43 to 144.44, 175.25 and 218.20 to 218.23, or rules or ordinances adopted thereunder which apply to junkyards. Provisions of this section apply to any junkyard licensed or permitted by a local unit of government or another state agency.

SECTION 7. Junkyard control appropriation. Of the amounts appropriated under section 20.395 (4) (q) of the statutes, as affected by the laws of 1975, \$200,000 is appropriated for 1976-77 for the purpose of junkyard control.
