

SUBCHAPTER 4 — CONTROL OF JUNKYARDS

SECTION.

- 27-74-401. Policy.
- 27-74-402. Definitions.
- 27-74-403. Notice.
- 27-74-404. Enforcement.
- 27-74-405. Screening requirement.

SECTION.

- 27-74-406. Permitted junkyards.
- 27-74-407. Screening and removal — Compensation.
- 27-74-408. Agreements with the United States.

Preambles. Acts 1967, No. 640 contained a preamble which read: "Whereas, the Congress of the United States has enacted legislation in the Highway Beautification act of 1965 which will cause substantial losses in federal-aid highway funds apportioned to Arkansas on or after January 1, 1968, unless the Arkansas General Assembly enacts conforming legislation (a) to regulate the erection and maintenance of outdoor advertising signs, displays and devices in areas adjacent to the federal-aid Interstate and Primary Systems; (b) to regulate the establishment, use and maintenance of junkyards in such areas; and (c) to provide for the

payment of full and just compensation upon the removal and relocation of outdoor advertising signs and junkyards; and

"Whereas, the Congress of the United States has made available additional federal funds for use in landscape and roadside development within federal-aid highway rights of way and for acquisition of interests and improvement of strips of land necessary for the restoration, preservation and enhancement of scenic beauty adjacent to such federal-aid highways;

"Now, therefore...."

Effective Dates. Acts 1967, No. 640, Art. 5: emergency failed to pass.

27-74-401. Policy.

(a) The General Assembly finds and declares that the establishment and use and maintenance of outdoor junkyards in areas adjacent to certain sections of the National System of Interstate and Defense Highways, the primary and other state highways designated by the commission shall be controlled in order to protect the public interest, to

promote the public health, safety, and welfare, and to preserve natural beauty.

(b) The General Assembly further finds that junkyards which do not conform to the requirements of this chapter are public nuisances.

History. Acts 1967, No. 640, Art. 2,
§ 1; A.S.A. 1947, § 76-2513.

CASE NOTES

Cited: Wright v. Arkansas State Hwy.
Comm'n, 255 Ark. 158, 499 S.W.2d 606
(1973).

27-74-402. Definitions.

As used in this subchapter, unless the context otherwise requires:

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

(2) "Automobile graveyard" means 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;

(3) "Junkyard" means an establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. The term shall also include garbage dumps and sanitary fills.

History. Acts 1967, No. 640, Art. 2,
§ 2; A.S.A. 1947, § 76-2514.

27-74-403. Notice.

Any person contemplating or planning the establishment of a junkyard is charged with notice of the provisions of this subchapter with respect to screening, relocation, removal, or disposal of such junkyards.

History. Acts 1967, No. 640, Art. 2,
§ 5; A.S.A. 1947, § 76-2517.

27-74-404. Enforcement.

(a) The General Assembly finds and declares that junkyards and automobile graveyards which do not conform to the requirements of this subchapter are public nuisances.

(b) Therefore, the right is conferred upon the commission to enforce the provisions of this subchapter by means of restraining order, mandatory injunction, or other appropriate remedy for the abatement of these public nuisances.

History. Acts 1967, No. 640, Art. 2,
 § 7; A.S.A. 1947, § 76-2519.

27-74-405. Screening requirement.

(a) Except as otherwise herein provided, no junkyards shall be established, operated, or maintained after June 29, 1967, any portion of which is within one thousand feet (1000') of the nearest edge of the right-of-way of any interstate, primary, or other state highway designated by the commission in the State of Arkansas unless the junkyards shall be screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main-traveled way of the highway, or shall be removed from sight.

(b) The commission is authorized and directed to promulgate rules and regulations governing the location, planting, construction, and maintenance, including materials used therein, of the screening and fencing required under this chapter.

History. Acts 1967, No. 640, Art. 2,
 § 3; A.S.A. 1947, § 76-2515.

CASE NOTES

In General.

Acts 1955, No. 212, which imposed a penalty of \$100 a day for each day a person kept or maintained five nonoperative automobiles within one-half mile of any paved highway, regardless of whether they could be seen or not, was held to be arbitrary and unreasonable in that it gave the person involved no opportunity

at all to save his business by obstructing it from the view of the persons who travel the highway in attempting to effect the act's intended purpose, which could have only been to protect the traveling public from unsightly views, which was an esthetic consideration. *Bachman v. State*, 235 Ark. 339, 359 S.W.2d 815 (1962) (decision under prior law).

27-74-406. Permitted junkyards.

Nothing contained in this subchapter shall prohibit the establishment, maintenance, and operation of outdoor junkyards, automobile graveyards, and scrap metal processing facilities within one thousand feet (1000') of the nearest edge of the right-of-way of interstate or primary state highways:

(1) Within those areas which are zoned industrial under authority of the laws of this state;

(2) Within those unzoned industrial areas which may be determined by agreement between the commission and the United States Secretary of Transportation; or

(3) Within other areas, when effectively screened as not to be visible from any point on the main-traveled way of such interstate or primary state highway.

History. Acts 1967, No. 640, Art. 2,
§ 4; A.S.A. 1947, § 76-2516.

27-74-407. Screening and removal — Compensation.

(a) The commission is authorized and empowered to require the screening of any junkyard by natural objects, plantings, fences, or other appropriate means, so as not to be visible from the main-traveled way of any interstate or primary state highway. The commission is also authorized and empowered to require the removal from sight of any junkyard not so screened which is so visible from the main-traveled way of the interstate or primary state highway.

(b) When the commission determines that the topography of the land will not permit adequate screening or that the screening would not be economically feasible, then just compensation shall be paid for the relocation, removal, or disposal of the following junkyards:

- (1) Those lawfully in existence on October 22, 1965;
- (2) Those lawfully along any highway in this state made a part of the state highway system on or after October 22, 1965, and before June 29, 1967; and
- (3) Those lawfully established on or after June 29, 1967.

(c) The commission is given the option of relocation, removal, or disposal of affected junkyards and is also authorized to make such payments when in the best interests of the state.

(d) No compensation shall be paid for the relocation, removal, or disposal of any junkyards except those enumerated in this section.

History. Acts 1967, No. 640, Art. 2,
§ 5; A.S.A. 1947, § 76-2517.

ARKANSAS STATE HIGHWAY DEPARTMENT

MINUTE ORDER

State Wide _____ County _____

Page 1 of 1 Pages

District Number _____

WHEREAS, Article II of Act 640 of the Acts of the General Assembly for the year 1967 (Ark. Stats. 76-2513-2519) directs the Arkansas State Highway Commission to promulgate rules and regulations governing the location, planting, construction, and maintenance, including materials used therein, for the screening and fencing of junkyards as defined by the said Act;

IT IS THEREFORE, CONSIDERED AND ORDERED that the following rules and regulations are hereby adopted for the screening and fencing of junkyards as defined by Act 640 of the Acts of the General Assembly for the year 1967, and are ordered published as prescribed by law.

I. General.

These rules shall apply to all junkyards located on all highways designated by the Arkansas Highway Commission as Interstate Highways or Primary Highways, and which can be screened using natural objects, plantings, fences or other appropriate means. These rules do not apply to junkyards in zoned industrial areas, zoned by an authorized zoning commission or those which exist in an unzoned industrial area as determined by an agreement between the Arkansas State Highway Commission and the U. S. Department of Transportation.

II. Screening.

A. Fences.

1. The fencing shall be of permanent materials and constructed so that it will be capable of remaining erect for at least 10 years.
2. The fencing shall be high enough to screen all junk and junked cars from view of the traveled way of the highway. Should the junk pile(s) be increased in height, the fence must also be increased.
3. It shall extend along the frontage of the junkyard parallel to the highway and perpendicular to the highway along the sides of the junkyard to a distance so that all junk and wrecked cars will be screened from view of the traveled way of the highway. ~~The fence must be located on the right~~

ARKANSAS STATE HIGHWAY DEPARTMENT

MINUTE ORDER

State Wide _____ County

Page 2 of 3 Pages

District Number _____

3. ~~(Continued) or way line of the highway in front of the junkyard unless permission is obtained from the Highway Department to locate it elsewhere.~~
4. The fence must be neat in appearance and of a uniform color and height. Steel signs will not be acceptable as a fencing material. If the fence is to be painted, it shall be of a uniform color or neatly trimmed in another color. Bright, loud colors will not be acceptable.
5. It is not necessary that the fence be solid. However, the open spaces must be small enough that the junk material is substantially screened.
6. The fence shall be maintained by the owner and/or operator of the junkyard. Should the fence become damaged or destroyed, it must be repaired within 30 days.

B. Plantings.

1. If plantings are to be used for screening, they must be large enough and placed close enough to screen the junk and junked cars immediately after planting.
2. All plants used must be of evergreen varieties.
3. Plants must be located with the same stipulations as fences.
4. In no cases will the planting of young plants or sparse plants with the purpose that in time the screening will be accomplished be acceptable.
5. Should the plants become diseased, die or be damaged in any way so as to cause the junk not to be screened, they must be replaced within 30 days.

C. Natural Objects.

1. Natural occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening if they are of a size such that the junk cannot be seen from the traveled way of the highway.
2. Natural objects may be used in conjunction with plantings, fences or other appropriate objects to screen junkyards.

D. Other Appropriate Objects for Screening.

1. Subject to prior approval by the Arkansas State Highway Commission, other objects for screening such as buildings, houses and occupied house trailers may be used entirely or in part to screen junkyards provided

Submitted by: .

Approved:

ARKANSAS STATE HIGHWAY DEPARTMENT

MINUTE ORDER

State Wide _____ County _____

Page 3 of 3 Pages

District Number _____

- 1. (Continued) the objects are neat in appearance and properly maintained so as not to mar the natural beauty of the highway and its facilities.

III. Conditions with Regard to Screening.

- A. It shall be the responsibility of the owner and/or operator of the junkyard to see that the screening is erected and maintained.
- B. ~~Prior to screening, plans showing the location of the proposed screen and a description of the materials to be used must be submitted to the Arkansas Highway Department, Maintenance Division, Roadside Development Section, P. O. Box 2261, Little Rock, Arkansas 72203, for approval.~~
- C. In no cases may the highway right of way be utilized for the storage of junk or junked vehicles. If the storage of junk or junked vehicles occurs in front of an erected screen, the yard shall be considered unscreened, and in violation of the provisions of Act 640 of the acts of the General Assembly for the year 19

IV. Failure to Screen.

Unscreened junkyards in violation of Act 640 of the Acts of the General Assembly for the year 1967 are deemed nuisances, and will be abated as prescribed by law.

SECTION 2 - -That the regulations set forth above shall be published in the Arkansas Gazette and the Arkansas Democrat once each week for three consecutive weeks.

SECTION 3 - -That two (2) copies of this Minute Order be mailed by certified mail, return receipt requested, to the Circuit Clerk of each County with directions that a copy of this Minute Order be posted immediately at the Courthouse, and one (1) copy of the Minute Order be retained in his office for public information.

SECTION 4 - -That the Legal Division shall be charged with the responsibility of seeing that these Rules and Regulations are published according to Law and to maintain the prepared files in connection therewith.

Approved: [Signature] Chairman
[Signature] Vice-Chairman
[Signature] Member
[Signature] Member
[Signature] Member

Submitted by: [Signature]
 Approved: [Signature]
 Minute No. 69 177
 Date Passed JUN 25 1969