

CHAPTER 953

S.B. No. 177

AN ACT

relating to the screening and the county regulation of junkyards and automotive wrecking and salvage yards; providing penalties.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. DEFINITIONS. In this Act:

(1) "Automotive wrecking and salvage yard" means any person or business that stores three or more wrecked vehicles outdoors for the purpose of dismantling or otherwise wrecking the vehicles to remove parts for sale or for use in an automotive repair or rebuilding business.

(2) "Junk" means copper, brass, iron, steel, rope, rags, batteries, tires, or other material (other than a wrecked vehicle) that has been discarded or sold at a nominal price by a previous owner of the material.

(3) "Junkyard" means a business enterprise that owns and is operated to store, buy, or sell junk, all or part of which is kept outdoors until disposed of.

(4) "Recycling business" means a business enterprise that is primarily engaged in the business of:

(A) converting ferrous or nonferrous metals or other materials into raw material products having prepared grades and having an existing or potential economic value;

(B) using raw material products of that kind in the production of new products; or

(C) obtaining or storing ferrous or nonferrous metals or other materials for a purpose described by Paragraph (A) or (B) of this subdivision.

(5) "Wrecked vehicle" means a discarded, abandoned, junked, wrecked, or worn-out automotive vehicle, including an automobile, truck, tractor-trailer, or bus, that is not in a condition to be lawfully operated on a public road.

SECTION 2. EXEMPTIONS. (a) The screening requirement established by Section 3 of this Act does not apply to:

(1) an automobile wrecking and salvage yard as defined by, and that is subject to, Chapter 886, Acts of the 68th Legislature, Regular Session, 1983 (Article 2372dd, Vernon's Texas Civil Statutes);

(2) a junkyard or automobile graveyard as defined by the Texas Litter Abatement Act (Article 4477-9a, Vernon's Texas Civil Statutes) and that is subject to Section 4.08 of that Act;

(3) a recycling business;

(4) a junkyard or an automotive wrecking and salvage yard that is located entirely within an incorporated city or town and that is subject to regulation in any manner by the city or town; or

(5) a junkyard or an automotive wrecking and salvage yard that begins operation before June 1, 1987.

(b) The county licensing provisions of Section 5 of this Act do not apply to:

- (1) a recycling business;
- (2) a junkyard or an automotive wrecking and salvage yard that is located entirely within an incorporated city or town and that is subject to regulation in any manner by the city or town; or
- (3) a junkyard or an automotive wrecking and salvage yard that begins operation before June 1, 1987.

SECTION 3. SCREENING REQUIREMENT. A person who operates a junkyard or an automotive wrecking and salvage yard in this state shall screen it by natural objects, plantings, fences, or other appropriate means so that the screen is at least six feet in height alongside that portion of the junkyard or automotive wrecking and salvage yard that faces a public road or family residence.

SECTION 4. EFFECT OF LOCAL ORDINANCES. In screening a junkyard or an automotive wrecking and salvage yard, the person who operates it must comply, to the extent practicable, with all applicable ordinances adopted by a political subdivision.

SECTION 5. COUNTY LICENSURE. (a) To protect the public health, safety, or welfare, the commissioners court of a county may adopt ordinances that require a junkyard or an automotive wrecking and salvage yard to be licensed by the county. The ordinances may:

- (1) impose a fee of \$25 for the issuance or renewal of a license;
 - (2) condition the validity of a license on the operation of the junkyard or automotive wrecking and salvage yard only at a location approved by the commissioners court;
 - (3) establish grounds for suspending or revoking a license if not screened.
- (b) Before adopting an ordinance under this section, the commissioners court must hold a public hearing at which interested members of the public may appear and testify before the court about the general subject to be covered by the proposed ordinance. The commissioners court shall post in a public place in the county courthouse a notice of the time, place, and general subject of the public hearing and shall cause the notice to be published in a newspaper of general circulation in the county. The notice must be posted for the 10 days immediately preceding the date of the public hearing and must be published at least once a week for the three weeks immediately preceding the week in which the public hearing is held.
- (c) Fees received by a county under the licensing program shall be deposited in the general fund of the county.
- (d) If a requirement, standard, or condition established under this section conflicts with a state law, a rule adopted under a state law, or a municipal ordinance, the stricter of the two provisions prevails.

SECTION 6. INJUNCTION. (a) Any person is entitled to appropriate injunctive relief to prevent a violation or threatened violation of this Act or of a county ordinance adopted under Section 5 of this Act from continuing or occurring.

(b) The venue for the injunction proceeding is in the county in which any part of the junkyard or the automotive wrecking and salvage yard is located.

SECTION 7. CRIMINAL PENALTY. (a) A person who knowingly or intentionally violates Section 3 of this Act commits an offense. An offense under this subsection is a Class C misdemeanor.

(b) If a county ordinance adopted under Section 5 of this Act defines an offense for a violation of the ordinance, the offense is a Class C misdemeanor.

(c) A separate offense occurs under Subsection (a) or (b) of this section on each day on which all the elements of the offense exist.

SECTION 8. EFFECTIVE DATE. This Act takes effect January 1, 1988.

SECTION 9. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 9, 1987, by a viva-voce vote; and that the Senate concurred in House amendments on May 28, 1987, by a viva-voce vote. Passed the House, with amendments, on May 25, 1987, by a non-record vote.

Approved June 20, 1987.

Effective Jan. 1, 1988.