

1 S.237

2 Introduced by Senators Snelling and Lyons

3 Referred to Committee on Natural Resources and Energy

4 Date: January 5, 2010

5 Subject: Conservation and development; salvage yards; general permit

6 Statement of purpose: This bill proposes to set operational standards for
7 salvage yards holding a certificate of registration from the agency of natural
8 resources. In addition, the bill requires owners and operators to attend an
9 annual training session conducted by the agency of natural resources.

10 An act relating to operational standards for salvage yards

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 ~~Sec. 1. 24 V.S.A. §§ 2248 and 2249 are added to read:~~

13 ~~§ 2248. SALVAGE YARD OPERATIONAL STANDARDS~~

14 ~~Beginning July 1, 2011, a salvage yard holding a certificate of registration~~
15 ~~under this subchapter shall meet the following operational standards:~~

16 ~~(1) The salvage yard shall comply with the screening and fencing~~
17 ~~requirements of section 2257 of this title;~~

18 ~~(2) Vehicles shall be drained of all fluids upon receipt by the salvage~~
19 ~~yard and before placement within the yard. Fluids that shall be drained include~~
20 ~~antifreeze, oil, brake fluid, fuel, refrigerants, and transmission fluid;~~

1 ~~(3) Vehicles shall be drained and crushed on a nonporous surface that is~~
2 ~~sheltered from or not exposed to rain or snow;~~

3 ~~(4) A salvage yard shall not be sited or operate within 100 feet of a~~
4 ~~Class I or Class II wetland as those terms are defined in section 902 of Title~~
5 ~~10; and~~

6 ~~(5) A salvage yard shall not be sited or operated within 5,000 feet of a~~
7 ~~potable water supply, as that term is defined in section 1972 of Title 10, unless~~
8 ~~the agency of natural resources approves management practices or remedial~~
9 ~~measures to prevent contamination of the potable water supply.~~

10 § 2249. SALVAGE YARD OPERATOR TRAINING

11 At least annually, the owner of operator of a salvage yard shall attend a
12 training workshop conducted by the agency of natural resources regarding the
13 requirements of this subchapter, best management practices, existing and
14 proposed environmental standards, and other applicable federal, state, or
15 municipal requirements.

16 Sec. 3. EFFECTIVE DATE

17 This act shall take effect July 1, 2010.

Sec. 1. 24 V.S.A. §§ 2248 and 2249 are added to read:

§ 2248. SALVAGE YARD OPERATIONAL STANDARDS

(a) Beginning July 1, 2010, a salvage yard shall meet the following operational standards:

(1) The salvage yard shall comply with the screening and fencing requirements of section 2257 of this title

~~(2) Vehicles shall be drained of all fluids prior to crushing and within 14 days of receipt by the salvage yard. Fluids shall be drained, collected, and stored according to standards established by the secretary in order to prevent release to the environment. Fluids that shall be drained, collected, and stored include antifreeze, oil, brake fluid, fuel, refrigerants, and transmission fluid.~~

~~(3) Vehicles shall be drained and crushed on a nonporous surface that is not subject to flooding and that is sheltered from or not exposed to rain or snow.~~

~~(4) A salvage yard issued a certificate of registration under section 2242 of this title after July 1, 2010, shall not be sited or operated within 100 feet of a Class I or Class II wetland as those terms are defined in 10 V.S.A. § 902. This subdivision shall not apply to the renewal of a valid certificate of registration under this chapter.~~

~~(5)(A) A salvage yard issued a certificate of registration under section 2242 of this title after July 1, 2010, shall not be sited or operated within 300 feet of a potable water supply as that term is defined in 10 V.S.A. § 1972, unless:~~

~~(i) the water supply provides water to the salvage yard; or~~

~~(ii) the agency of natural resources approves management practices or remedial measures to prevent contamination of the potable water supply.~~

~~(B) This subdivision shall not apply to the renewal of a valid certificate of registration under this chapter.~~

~~(b) On or before February 15, 2011, the secretary shall adopt by rule requirements for the siting, operation, and closure of salvage yards. The rules shall establish requirements for:~~

~~(1) the siting of all salvage yards, including setbacks from surface waters, wetlands, and potable water supplies;~~

~~(2) exemptions from the requirement to obtain a certificate of registration under section 2242 of this title;~~

~~(3) financial responsibility in amounts necessary to remediate potential environmental contamination caused by the salvage yard;~~

~~(4) removal of solid waste or tires from the salvage yard for proper disposal;~~

~~(5) establishment and maintenance of screening or fencing of salvage yards from public view;~~

~~(6) assuring proper closure of a salvage yard facility;~~

~~(7) postclosure environmental monitoring of a salvage yard;~~

~~(8) classes or categories of salvage yards, including those handling total loss vehicles from insurance; and~~

~~(9) additional measures that the secretary determines necessary for the protection of public health, safety, and the environment.~~

~~(c) The secretary may issue a general permit for the regulation of salvage yards under this subchapter. The general permit may include a provision allowing a holder of a valid certificate of registration issued under this subchapter to self-certify compliance with the applicable standards of this subchapter and rules adopted under this subchapter. A general permit issued under this section shall be adopted by rule and may be incorporated into the rule required under subsection (b) of this section.~~

~~(d) No person may deliver salvage vehicles or operate a mobile salvage vehicle crusher at a salvage yard that does not hold a certificate of registration under this subchapter. A salvage yard holding a certificate of registration under this subchapter shall post a copy of its current certificate in a clearly visible location in the proximity of each entrance to the salvage yard.~~

~~(e) The requirement under subdivision (a)(2) of this section or rules adopted under this section to drain a vehicle within 14 days of receipt shall not apply to a salvage yard holding a certificate of registration under this subchapter that, as of January 1, 2010, is conducting business, the primary activity of which is the handling of total loss vehicles from insurance companies.~~

~~§ 2249. SALVAGE YARD OPERATOR TRAINING~~

~~At least annually, the owner or operator of a salvage yard shall attend a training workshop conducted by the agency of natural resources regarding the requirements of this subchapter, best management practices, existing and proposed environmental standards, and other applicable federal, state, or municipal requirements.~~

~~Sec. 2. 24 V.S.A. § 2241 is amended to read:~~

~~§ 2241. DEFINITIONS~~

~~For the purposes of this subchapter:~~

- ~~(1) "Abandoned" means a motor vehicle as defined in 23 V.S.A. § 2151.~~
- ~~(2) "Board" means the state transportation board, or its duly delegated representative.~~
- ~~(3) "Highway" means any highway as defined in section 1 of Title 19.~~

~~(4) "Interstate or primary highway" means any highway, including access roads, ramps and connecting links, which have been designated by the state with the approval of the Federal Highway Administration, Department of Transportation, as part of the National System of Interstate and Defense Highways, or as a part of the national system of primary highways.~~

~~(5) "Junk" means old or scrap copper, brass, iron, steel, and other old or scrap or nonferrous material, including but not limited to rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or parts thereof.~~

~~(6) "Junk motor vehicle" means a discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof, or one other than an on-premise utility vehicle which is allowed to remain unregistered or uninspected for a period of ~~ninety~~ 90 days from the date of discovery.~~

~~(7) "Salvage yard" means any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility. "Salvage yard" also means any ~~place of outdoor storage or deposit, not in connection with a business which is maintained or used for storing or keeping four or more junk motor vehicles which are visible from any portion of a public highway or navigable water, as that term is defined in section 1422 of Title 10~~ outdoor area used for operation of an automobile graveyard. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.~~

~~(8) "Legislative body" means the city council of a city, the board of selectmen of a town, or the board of trustees of a village.~~

~~(9) "Main traveled way" means the portion of a highway designed for the movement of motor vehicles, shoulders, auxiliary lanes, and roadside picnic, parking, rest, and observation areas and other areas immediately adjacent and contiguous to the traveled portion of the highway and designated by the transportation board as a roadside area for the use of highway users and generally but not necessarily located within the highway right-of-way.~~

~~(10) "Motor vehicle" means any vehicle propelled or drawn by power other than muscular power, including trailers.~~

~~(11) "Notice" means by certified mail with return receipt requested.~~

~~(12) "Scrap metal processing facility" means a manufacturing business which purchases sundry types of scrap metal from various sources including the following: industrial plants, fabricators, manufacturing companies, railroads, junkyards, auto wreckers, salvage dealers, building wreckers, and plant dismantlers and sells the scrap metal in wholesale shipments directly to~~

~~foundries, ductile foundries and steel foundries where the scrap metal is melted down and utilized in their manufacturing process.~~

~~(13) "Secretary" means the secretary of natural resources or the secretary's designee.~~

~~(14) "Automobile hobbyist" means a person who is not primarily engaged in the business of:~~

~~(A) selling motor vehicles or motor vehicle parts; or~~

~~(B) accepting, storing, or dismantling junk motor vehicles.~~

~~(15) "Automobile graveyard" means a yard, field, or other outdoor area used or maintained for storing or depositing four or more junk motor vehicles. "Automobile graveyard" does not include:~~

~~(A) an area used by an automobile hobbyist to store, organize, restore, or display motor vehicles or parts of such vehicles, provided that the hobbyist's activities comply with all applicable federal, state, and municipal law;~~

~~(B) an area used for the storage of motor vehicles exempt from registration under chapter 7 of Title 23;~~

~~(C) an area owned or used by a dealer registered under 23 V.S.A. § 453 for the storage of motor vehicles; or~~

~~(D) an area used or maintained for the parking or storage of operational commercial motor vehicles, as that term is defined in 23 V.S.A. § 4103(4), that are temporarily out of service and unregistered but are expected to be used in the future by the vehicle operator or owner.~~

~~Sec. 3. 24 V.S.A. § 4454(a) is amended to read:~~

~~(a) An action, injunction, or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required municipal land use permit may be instituted under ~~sections~~ section 1974a, 4451, or 4452 of this title against the alleged offender if the action, injunction, or other enforcement proceeding is instituted within 15 years from the date the alleged violation first occurred and not thereafter, except that the 15-year limitation for instituting an action, injunction, or enforcement proceeding shall not apply to any action, injunction, or enforcement proceeding instituted for a violation of chapter 61 of this title. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.~~

~~Sec. 4. 27 V.S.A. § 612(a) is amended to read:~~

~~(a) Notwithstanding the majority decision in *Bianchi v. Lorenz* (1997), for land development, as defined in 24 V.S.A. § 4303(3)(10), no encumbrance on record title to real estate or effect on marketability shall be created by the failure to obtain or comply with the terms or conditions of any required municipal land use permit as defined in 24 V.S.A. § 4303(24)(11).~~

~~Sec. 5. 24 V.S.A. § 4303(11) is amended to read:~~

~~(11) "Municipal land use permit" means any of the following whenever issued:~~

~~(A) A zoning, subdivision, site plan, or building permit or approval, any of which relate to "land development" as defined in this section, that has received final approval from the applicable board, commission, or officer of the municipality.~~

~~(B) A wastewater system permit issued under any municipal ordinance adopted pursuant to chapter 102 of this title.~~

~~(C) Final official minutes of a meeting that relate to a permit or approval described in subdivision (11)(A) or (B) of this section that serve as the sole evidence of that permit or approval.~~

~~(D) A certificate of occupancy, certificate of compliance, or similar certificate that relates to the permits or approvals described in subdivision (11)(A) or (B) of this section, if the bylaws so require.~~

~~(E) An amendment of any of the documents listed in subdivisions (11)(A) through (D) and (F) of this section.~~

~~(F) A certificate of approved location for a salvage yard issued under chapter 61 of this title.~~

~~Sec. 6. REPEAL~~

~~24 V.S.A. § 2248(a) (statutory operational standards for salvage yards) is repealed February 15, 2011.~~

~~Sec. 7. EFFECTIVE DATE~~

~~This act shall take effect July 1, 2010.~~

~~Sec. 1. 24 V.S.A. §§ 2248 and 2249 are added to read:~~

~~§ 2248. SALVAGE YARD OPERATIONAL STANDARDS~~

~~(a) Beginning July 1, 2010, a salvage yard shall meet the following operational standards:~~

~~(1) The salvage yard shall comply with the screening and fencing requirements of section 2257 of this title.~~

(2) Motor vehicles shall be drained of all fluids prior to crushing and within 365 days of receipt by the salvage yard, except that a vehicle with visible signs of leaking fluids shall be drained immediately. Fluids shall be drained, collected, and stored according to standards established by the secretary in order to prevent release to the environment. The fluids that shall be drained, collected, and stored under this subdivision include antifreeze, oil, brake fluid, fuel, refrigerants, and transmission fluid.

(3) Vehicles shall be drained and crushed:

(A) on or over a surface that is designed to retain seepage or draining fluids and that is designed to prevent releases to groundwater, discharges to surface waters, or other releases to the environment; or

(B) by a crusher with an onboard fluid-recovery and storage system that prevents releases to groundwater, discharges to surface waters, or other releases to the environment.

(4) A salvage yard issued a certificate of registration under section 2242 of this title after July 1, 2010, shall not be sited or operated within 100 feet of a Class I or Class II wetland as those terms are defined in 10 V.S.A. § 902. This subdivision shall not apply to the renewal of a valid certificate of registration under this subchapter.

(5)(A) A salvage yard issued a certificate of registration under section 2242 of this title after July 1, 2010, shall not be sited or operated within 300 feet of a potable water supply, as that term is defined in 10 V.S.A. § 1972, unless:

(i) the water supply provides water to the salvage yard; or

(ii) the agency of natural resources approves management practices or remedial measures to prevent contamination of the potable water supply.

(B) This subdivision shall not apply to the renewal of a valid certificate of registration under this subchapter.

(b) On or before March 31, 2011, the secretary shall adopt by rule requirements for the siting, operation, and closure of salvage yards. The rules shall establish requirements for:

(1) the siting of salvage yards, including setbacks from surface waters, wetlands, and potable water supplies. Siting requirements under this subdivision may include site-specific conditions for salvage yards operating under a valid certificate of registration under section 2242 of this title, provided that such site-specific conditions are designed to prevent releases to groundwater, discharges to surface waters, or other risks to public health and

the environment. A site-specific condition under this subdivision may include the requirement that the owner or operator of a salvage yard obtain an individual certificate of registration under section 2242 of this title instead of operating under a general permit adopted by the secretary under subsection (c) of this section;

(2) exemptions from the requirement to obtain a certificate of registration under section 2242 of this title;

(3) when an instrument of financial responsibility may be required by the secretary in amounts necessary to:

(A) remediate potential or existing environmental contamination caused by the salvage yard; or

(B) assure proper management of salvage materials upon closure of the salvage yard;

(4) removal of solid waste or tires from the salvage yard for proper disposal;

(5) establishment and maintenance of screening or fencing of salvage yards from public view;

(6) assuring proper closure of a salvage yard facility;

(7) postclosure environmental monitoring of a salvage yard;

(8) classes or categories of salvage yards, including those handling total loss vehicles from insurance; and

(9) additional measures that the secretary determines necessary for the protection of public health, safety, and the environment.

(c)(1) The secretary may issue a general permit for a certificate of registration issued to salvage yards under section 2242 of this title. The general permit may include a provision allowing a holder of a valid certificate of registration issued under this subchapter to self-certify compliance with the applicable standards of this subchapter and rules adopted under this subchapter. A general permit issued under this section shall be adopted by rule and may be incorporated into the rule required under subsection (b) of this section.

(2) If the secretary adopts a general permit for the regulation of salvage yards under subdivision (1) of this subsection, the secretary may require an owner or operator of a salvage yard that is operating under the general permit or that is applying for coverage under the general permit to obtain an individual certificate of registration under section 2242 of this title if any one of the following applies:

(A) the salvage yard does not qualify for the general permit;

(B) a salvage yard operating under the general permit is in violation of the terms and conditions of the general permit;

(C) the size, scope, or nature of the activity of the salvage yard exceeds the parameters of the general permit;

(D) the owner or operator of the salvage yard has a history of noncompliance; or

(E) the salvage yard presents a potential risk to public health or the environment.

(d) No person may deliver salvage vehicles to or operate a mobile salvage vehicle crusher at a salvage yard that does not hold a certificate of registration under this subchapter. A salvage yard holding a certificate of registration under this subchapter shall post a copy of its current certificate in a clearly visible location in the proximity of each entrance to the salvage yard.

(e) The requirement under subdivision (a)(2) of this section or rules adopted under this section to drain a vehicle within 365 days of receipt shall not apply to a salvage yard holding a certificate of registration under this subchapter that, as of January 1, 2010, is conducting business, the primary activity of which is the handling of total loss vehicles from insurance companies.

§ 2249. SALVAGE YARD OPERATOR TRAINING

At least annually, the owner or operator of a salvage yard shall attend a training workshop conducted by or approved by the agency of natural resources regarding the requirements of this subchapter, best management practices, existing and proposed environmental standards, and other applicable federal, state, or municipal requirements.

Sec. 2. 24 V.S.A. § 2241 is amended to read:

§ 2241. DEFINITIONS

For the purposes of this subchapter:

(1) "Abandoned" means a motor vehicle as defined in 23 V.S.A. § 2151.

(2) "Board" means the state transportation board, or its duly delegated representative.

(3) "Highway" means any highway as defined in ~~section~~ 19 V.S.A. § 1 of Title 19.

(4) "Interstate or primary highway" means any highway, including access roads, ramps and connecting links, which have been designated by the

state with the approval of the Federal Highway Administration, Department of Transportation, as part of the National System of Interstate and Defense Highways, or as a part of the national system of primary highways.

(5) *“Junk” means old or scrap copper, brass, iron, steel, and other old or scrap or nonferrous material, including but not limited to rope, rags, batteries, glass, rubber debris, waste, trash, or any discarded, dismantled, wrecked, scrapped, or ruined motor vehicles or parts thereof.*

(6) *“Junk motor vehicle” means a discarded, dismantled, wrecked, scrapped, or ruined motor vehicle or parts thereof, or ~~one~~ a motor vehicle, other than an on-premise utility vehicle, which is allowed to remain unregistered or uninspected for a period of ~~ninety~~ 90 days from the date of discovery.*

(7) *“Salvage yard” means any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility. “Salvage yard” also means any ~~place of outdoor storage or deposit, not in connection with a business which is maintained or used for storing or keeping four or more junk motor vehicles which are visible from any portion of a public highway or navigable water, as that term is defined in section 1422 of Title 10~~ outdoor area used for operation of an automobile graveyard. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.*

(8) *“Legislative body” means the city council of a city, the board of selectmen of a town, or the board of trustees of a village.*

(9) *“Main traveled way” means the portion of a highway designed for the movement of motor vehicles, shoulders, auxiliary lanes, and roadside picnic, parking, rest, and observation areas and other areas immediately adjacent and contiguous to the traveled portion of the highway and designated by the transportation board as a roadside area for the use of highway users and generally but not necessarily located within the highway right-of-way.*

(10) *“Motor vehicle” means any vehicle propelled or drawn by power other than muscular power, including trailers.*

(11) *“Notice” means by certified mail with return receipt requested.*

(12) *“Scrap metal processing facility” means a manufacturing business which purchases sundry types of scrap metal from various sources including the following: industrial plants, fabricators, manufacturing companies, railroads, junkyards, auto wreckers, salvage dealers, building wreckers, and plant dismantlers and sells the scrap metal in wholesale shipments directly to foundries, ductile foundries, and steel foundries where the scrap metal is melted down and utilized in their manufacturing process.*

(13) "Secretary" means the secretary of natural resources or the secretary's designee.

(14) "Automobile hobbyist" means a person who is not primarily engaged in the business of:

(A) selling motor vehicles or motor vehicle parts; or

(B) accepting, storing, or dismantling junk motor vehicles.

(15) "Automobile graveyard" means a yard, field, or other outdoor area on a property owned or controlled by a person and used or maintained for storing or depositing four or more junk motor vehicles. "Automobile graveyard" does not include:

(A) an area used by an automobile hobbyist to store, organize, restore, or display motor vehicles or parts of such vehicles, provided that the hobbyist's activities comply with all applicable federal, state, and municipal law;

(B) an area used for the storage of motor vehicles exempt from registration under chapter 7 of Title 23;

(C) an area owned or used by a dealer registered under 23 V.S.A. § 453 for the storage of motor vehicles; or

(D) an area used or maintained for the parking or storage of operational commercial motor vehicles, as that term is defined in 23 V.S.A. § 4103(4), that are temporarily out of service and unregistered but are expected to be used in the future by the vehicle operator or owner.

Sec. 3. 24 V.S.A. § 2242 is amended to read:

§ 2242. REQUIREMENT FOR OPERATION OR MAINTENANCE

(a) A person shall not operate, establish, or maintain a salvage yard unless he or she:

(1) Holds a certificate of approval for the location of the salvage yard; and

(2) Holds a certificate of registration issued by the secretary to operate, establish, or maintain a salvage yard.

(b) The issuance of a certificate of registration under subsection (a) of this section shall not relieve a salvage yard from the obligation to comply with existing state and federal environmental laws and to obtain all permits required under state or federal environmental law.

(c) The secretary may require a person to obtain a salvage yard certificate of registration under this section upon a determination, based on available

information, that the person has taken action to circumvent the requirements of this subchapter.

Sec. 3. 24 V.S.A. § 4454(a) is amended to read:

(a) An action, injunction, or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required municipal land use permit may be instituted under ~~sections~~ section 1974a, 4451, or 4452 of this title against the alleged offender if the action, injunction, or other enforcement proceeding is instituted within 15 years from the date the alleged violation first occurred and not thereafter, except that the 15-year limitation for instituting an action, injunction, or enforcement proceeding shall not apply to any action, injunction, or enforcement proceeding instituted for a violation of subchapter 10 of chapter 61 of this title. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.

Sec. 4. 27 V.S.A. § 612(a) is amended to read:

(a) Notwithstanding the majority decision in *Bianchi v. Lorenz* (1997), for land development, as defined in 24 V.S.A. § 4303~~(3)~~(10), no encumbrance on record title to real estate or effect on marketability shall be created by the failure to obtain or comply with the terms or conditions of any required municipal land use permit as defined in 24 V.S.A. § 4303~~(24)~~(11).

Sec. 5. 24 V.S.A. § 4303(11) is amended to read:

(11) "Municipal land use permit" means any of the following whenever issued:

(A) A zoning, subdivision, site plan, or building permit or approval, any of which relate to "land development" as defined in this section, that has received final approval from the applicable board, commission, or officer of the municipality.

(B) A wastewater system permit issued under any municipal ordinance adopted pursuant to chapter 102 of this title.

(C) Final official minutes of a meeting that relate to a permit or approval described in subdivision (11)(A) or (B) of this section that serve as the sole evidence of that permit or approval.

(D) A certificate of occupancy, certificate of compliance, or similar certificate that relates to the permits or approvals described in subdivision (11)(A) or (B) of this section, if the bylaws so require.

(E) An amendment of any of the documents listed in subdivisions (11)(A) through (D) and (F) of this section.

(F) A certificate of approved location for a salvage yard issued under subchapter 10 of chapter 61 of this title.

Sec. 6. REPEAL

24 V.S.A. § 2248(a) (statutory operational standards for salvage yards) is repealed March 31, 2011.

Sec. 7. EFFECTIVE DATE

This act shall take effect July 1, 2010.