

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 829

An Act to amend and reenact §§ 15.2-901 and 15.2-904 of the Code of Virginia, relating to civil penalties for violation of certain local ordinances.

[S 1066]

Approved March 22, 2003

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-901 and 15.2-904 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-901. Locality may provide for removal or disposal of trash, cutting of grass and weeds; penalty in certain counties.

A. Any locality may, by ordinance, provide that:

1. The owners of property therein shall, at such time or times as the governing body may prescribe, remove therefrom any and all trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of such locality; or may, whenever the governing body deems it necessary, after reasonable notice, have such trash, garbage, refuse, litter and other like substances which might endanger the health of other residents of the locality, removed by its own agents or employees, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected;

2. Trash, garbage, refuse, litter and other debris shall be disposed of in personally owned or privately owned receptacles that are provided for such use and for the use of the persons disposing of such matter or in authorized facilities provided for such purpose and in no other manner not authorized by law;

3. The owners of vacant developed or undeveloped property therein, including such property upon which buildings or other improvements are located, shall cut the grass, weeds and other foreign growth on such property or any part thereof at such time or times as the governing body shall prescribe; or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. In a locality within Planning District 8, an ordinance adopted pursuant to this subdivision may also apply to owners of occupied property therein. No such ordinance adopted by any county shall have any force and effect within the corporate limits of any town. No such ordinance adopted by any county having a density of population of less than 500 per square mile shall have any force or effect except within the boundaries of platted subdivisions or any other areas zoned for residential, business, commercial or industrial use.

B. Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

C. *The governing body of any locality may by ordinance provide that violations of this section shall be subject to a civil penalty, not to exceed \$50 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a 12-month period.*

D. *Except as provided in this subsection, adoption of an ordinance pursuant to subsection C shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. The governing body of any locality may, however, by ordinance provide that such violations shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.*

§ 15.2-904. Authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property; removal of such vehicles.

A. Any locality may, by ordinance, provide that it shall be unlawful for any person to keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any

property zoned for residential or commercial or agricultural purposes any motor vehicle, trailer or semitrailer, as such are defined in § 46.2-100, which is inoperable. Any locality in addition may, by ordinance, limit the number of inoperable motor vehicles which any person may keep outside of a fully enclosed building or structure, but which are shielded or screened from view by covers. As used in this section, an " inoperable motor vehicle" means any motor vehicle which is not in operating condition; or which for a period of ~~sixty~~ 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle or on which there are displayed neither valid license plates nor a valid inspection decal. However, the provisions of this section shall not apply to a licensed business which on June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

B. Any locality may, by ordinance, further provide that: (i) the owners of property zoned for residential, commercial or agricultural purposes shall, at such time or times as the locality prescribes, remove therefrom any such inoperable motor vehicles, trailers or semitrailers that are not kept within a fully enclosed building or structure; (ii) such locality through its own agents or employees may remove any such inoperable motor vehicles, trailers or semitrailers, whenever the owner of the premises, after reasonable notice, has failed to do so; (iii) in the event such locality, through its own agents or employees, removes any such motor vehicles, trailers or semitrailers, after having given such reasonable notice, such locality may dispose of such motor vehicles, trailers or semitrailers after giving additional notice to the owner of the vehicle; (iv) the cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the locality as taxes are collected; and (v) every cost authorized by this section with which the owner of the premises has been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs has been made to the locality.

C. The governing body of any locality may by ordinance provide that violations of this section shall be subject to a civil penalty, not to exceed \$50 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a 12-month period.

D. Except as provided in this subsection, adoption of an ordinance pursuant to subsection C shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. The governing body of any locality may, however, by ordinance provide that such violations shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.