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SENATE BILL NO. 204

AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the Senate Committee on Local Government)
 (Patron Prior to Substitute—Senator Quayle)
 Senate Amendments in [] — February 12, 2004

A BILL to amend and reenact §§ 15.2-904 and 15.2-905 of the Code of Virginia, relating to inoperable motor vehicles.

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-904 and 15.2-905 of the Code of Virginia are amended and reenacted as follows:

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

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 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 [~~or otherwise shielded or screened from view~~] ; (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. [*Notwithstanding the other provisions of this subsection, if the owner of such vehicle can demonstrate that he is actively restoring or repairing the vehicle, and if it is shielded or screened from view, the vehicle and one additional inoperative motor vehicle being used for the restoration or repair may remain on the property for a period of 6 months, or such longer period set out in the ordinance.*]

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.

E. As used in this section, notwithstanding any other provision of law, general or special, "shielded or screened from view" means not visible by someone standing at ground level from outside of the property on which the subject vehicle is located [*and is not visible by someone in or on a building located on adjoining property*] .

§ 15.2-905. Authority to restrict keeping of inoperable motor vehicles, etc., on residential or

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60 commercial property in certain localities; removal of such vehicles.

61 A. The governing body of any county having adopted the urban county executive form of
62 government; any county contiguous thereto; the county manager form; any town located, wholly or
63 partly, in such counties; any city contiguous to a county having adopted the urban county executive
64 form of government or surrounded by a county contiguous thereto; any city having a population between
65 35,000 and 40,000, any city having a population between 60,000 and 70,000 and any city having a
66 population between 95,000 and 105,000 may by ordinance prohibit any person from keeping, except
67 within a fully enclosed building or structure or otherwise shielded or screened from view, on any
68 property zoned or used for residential purposes, or on any property zoned for commercial or agricultural
69 purposes, any motor vehicle, trailer or semitrailer, as such are defined in § 46.2-100, which is
70 inoperable.

71 The locality in addition may by ordinance limit the number of inoperable motor vehicles which any
72 person may keep outside of a fully enclosed building or structure.

73 As used in this section, *notwithstanding any other provision of law, general or special*, "shielded or
74 screened from view" means ~~hidden from sight by plantings or fences not visible by someone standing at~~
75 *ground level from outside of the property on which the subject vehicle is located* [*and is not visible by*
76 *someone in or on a building located on adjoining property*] .

77 As used in this section, an "inoperable motor vehicle" means any motor vehicle, trailer or semitrailer
78 which is not in operating condition; or does not display valid license plates; or does not display an
79 inspection decal that is valid or does display an inspection decal that has been expired for more than
80 sixty days. The provisions of this section shall not apply to a licensed business which is regularly
81 engaged in business as an automobile dealer, salvage dealer or scrap processor.

82 B. The locality may, by ordinance, further provide that the owners of property zoned or used for
83 residential purposes, or zoned for commercial or agricultural purposes, shall, at such time or times as the
84 governing body may prescribe, remove therefrom any inoperable motor vehicle that is not kept within a
85 fully enclosed building or structure [~~or otherwise shielded or screened from view~~] . The locality may
86 remove the inoperable motor vehicle, whenever the owner of the premises, after reasonable notice, has
87 failed to do so. [*Notwithstanding the other provisions of this subsection, if the owner of such vehicle*
88 *can demonstrate that he is actively restoring or repairing the vehicle, and if it is shielded or screened*
89 *from view, the vehicle and one additional inoperative motor vehicle being used for the restoration or*
90 *repair may remain on the property for a period of 6 months, or such longer period set out in the*
91 *ordinance.*]

92 In the event the locality removes the inoperable motor vehicle, after having given such reasonable
93 notice, it may dispose of the vehicle after giving additional notice to the owner of the premises. The
94 cost of the removal and disposal may be charged to either the owner of the inoperable vehicle or the
95 owner of the premises and the cost may be collected by the locality as taxes are collected. Every cost
96 authorized by this section with which the owner of the premises has been assessed shall constitute a lien
97 against the property from which the inoperable vehicle was removed, the lien to continue until actual
98 payment of the cost has been made to the locality.