

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 291

An Act to amend and reenact § 33.1-348 of the Code of Virginia, relating to junkyards.

[H 1891]

Approved March 20, 2005

Be it enacted by the General Assembly of Virginia:

1. That § 33.1-348 of the Code of Virginia is amended and reenacted as follows:

§ 33.1-348. Junkyards.

(a) For the purpose of promoting the public safety, health, welfare, convenience and enjoyment of public travel, to protect the public investment in public highways, and to preserve and enhance the scenic beauty of lands bordering public highways, it is hereby declared to be in the public interest to regulate and restrict the establishment, operation, and maintenance of junkyards in areas adjacent to the highways within this Commonwealth.

(b) For the purpose of this section the following definitions shall apply:

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

(2) "Automobile graveyard" shall mean any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, *that are* incapable of being operated and which it would not be economically practical to make operative, are placed, located or found. *The movement or rearrangement of vehicles within an existing lot or facility does not render this definition inapplicable. The provisions established by this subdivision shall begin with the first day that the vehicle is placed on the subject property.*

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

(4) "Interstate system" shall mean the system presently defined in subsection (e) of § 103 of Title 23, United States Code.

(5) "Primary highway" shall mean any highway within the State Highway System as established and maintained under Article 2 (§ 33.1-25 et seq.), Chapter 1 of this title, including extensions of such System within municipalities.

(6) "Federal-aid primary highway" shall mean any highway within that portion of the State Highway System as established and maintained under Article 2 (§ 33.1-25 et seq.), Chapter 1 of this title, including extensions of such System within municipalities, which has been approved by the Secretary of Commerce pursuant to subsection (b) of § 103 of Title 23, United States Code.

(7) "Visible" shall mean capable of being seen without visual aid by a person of normal visual acuity.

(c) No junkyard shall be hereafter established, any portion of which is within 1,000' of the nearest edge of the right-of-way of any interstate or primary highway or within 500' of the nearest edge of the right-of-way of any other highway or city street, except the following:

(1) Junkyards which are 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 city street, or otherwise removed from sight.

(2) Junkyards which are located in areas which are zoned for industrial use under authority of state law or in unzoned industrial areas as determined by the Commonwealth Transportation Board.

(3) Junkyards which are not visible from the main-traveled way of the highway or city street.

(d) Any junkyard lawfully in existence on April 4, 1968, which is within 1,000' of the nearest edge of the right-of-way and visible from the main-traveled way of any interstate or federal-aid primary highway, and not located within an industrial area, shall be screened, if feasible, by the Commonwealth Transportation Commissioner at locations on the highway right-of-way or in areas acquired for such purposes outside the right-of-way, so as not to be visible from the main-traveled way of such highways.

Any junkyard lawfully in existence on April 4, 1968, which is within 1,000' of the nearest edge of the right-of-way of any other primary highway or within 500' of the nearest edge of the right-of-way of any other highway and visible from the main-traveled way of such highway, and not located within an industrial area, may be screened by the Commonwealth Transportation Commissioner in the same manner as junkyards adjacent to interstate or federal-aid primary highways.

The Commonwealth Transportation Commissioner is hereby authorized to acquire by purchase, gift or the power of eminent domain such lands or interests in lands as may be necessary to provide adequate screening of such junkyards.

(e) When the Commonwealth Transportation Commissioner determines that the topography of the land adjoining an interstate or federal-aid primary highway will not permit adequate screening of such junkyards or the screening of such junkyards would not be economically feasible, the Commonwealth Transportation Commissioner shall have the authority to acquire by gift, purchase or the power of eminent domain, such interests in lands as may be necessary to secure the relocation, removal, or disposal of the junkyards, and to pay for the costs of relocation, removal, or disposal, thereof. When the Commonwealth Transportation Commissioner determines that the topography of the land adjoining any other highway will not permit adequate screening or such would not be feasible, the Commissioner may exercise the same authority to relocate such junkyards as is vested in him in regard to interstate and federal-aid primary highways.

(f) Any junkyard which comes into existence after April 4, 1968, and which cannot be made to conform to this section, is declared to be a public and private nuisance and may be forthwith removed, obliterated or abated by the Commissioner or his representatives. The Commissioner may collect the cost of such removal, obliteration or abatement from the person owning or operating such junkyard.

(g) The Commonwealth Transportation Board is authorized to enter into agreements with the United States as provided in 23 U.S.C. § 136 with respect to control of junkyards.

(h) The Commonwealth Transportation Commissioner shall not be required to expend any funds for screening or relocation under this section unless and until federal-aid matching funds are made available for this purpose.

(i) Any person violating any provision of this section shall be guilty of a misdemeanor.