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SENATE BILL NO. 1224

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 2, 2009)

(Patron Prior to Substitute—Senator Smith)

A BILL to amend and reenact § 33.1-346 of the Code of Virginia and to repeal § 33.1-346.1 of the Code of Virginia, relating to littering on highway, right-of-way, or private property; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 33.1-346 of the Code of Virginia is amended and reenacted as follows:

§ 33.1-346. Dumping trash, companion animals, etc., on highway, right-of-way or private property; penalty.

A. It shall be unlawful for any person to dump or otherwise dispose of trash, garbage, refuse, litter, a companion animal for the purpose of disposal, or other unsightly matter, on public property, including a public highway, right-of-way, property adjacent to such highway or right-of-way, or on private property without the written consent of the owner thereof or his agent.

B. When any person is arrested for a violation of this section, and the matter alleged to have been illegally dumped or disposed of has been ejected from a motor vehicle or transported to the disposal site in a motor vehicle, the arresting officer may comply with the provisions of § 46.2-936 in making such arrest.

When a violation of the provisions of this section has been observed by any person, and the matter illegally dumped or disposed of has been ejected or removed from a motor vehicle, the owner or operator of such motor vehicle shall be presumed to be the person ejecting or disposing of such matter. However, such presumption shall be rebuttable by competent evidence.

C. Any person convicted of a violation of this section shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than ~~\$250~~ \$500 or more than \$2,500, either or both *and shall be ordered to perform a mandatory minimum of 10 hours of community service.*

In lieu of the imposition of confinement in jail, the court may order the defendant to perform community service in litter abatement activities.

D. The governing bodies of counties, cities and towns are hereby authorized to adopt ordinances not in conflict with the provisions of this section, and may repeal, amend or modify such ordinances.

E. The provisions of this section shall not apply to the lawful disposal of such matter in landfills.

2. That § 33.1-346.1 of the Code of Virginia is repealed.

SENATE SUBSTITUTE

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