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## SENATE BILL NO. 393

Senate Amendments in [ ] — February 10, 1994

A BILL to amend and reenact § 57-26 of the Code of Virginia, relating to cemeteries.

Patrons—Goode; Delegates: Armstrong and Dudley

Referred to the Committee on General Laws

## Be it enacted by the General Assembly of Virginia:

## 1. That § 57-26 of the Code of Virginia is amended and reenacted as follows:

§ 57-26. Restrictions as to location of cemeteries and as to quantity of land.

(1) A. Restrictions as to location. No cemetery shall be hereafter established within a county or the corporate limits of any city or town, unless authorized by appropriate ordinance subject to any zoning ordinance duly adopted by the governing body of such county, city or town; provided that authorization by county ordinance shall not be required for interment of the dead in any churchyard or for interment of members of a family on private property; nor shall any cemetery be established within 250 yards of any residence without the consent of the owner of the legal and equitable title of the residence; provided that subject to the foregoing if the location for the proposed cemetery is separated from any residence by a state highway, it may be established upon such location without the consent of the owner of such residence if it be not less than 250' from the residence at its nearest point thereto; provided such prohibition and restriction shall not apply where the tract of land intended for use as a cemetery is separated from any residence by a state highway and now contains a public or private burial ground and is not within the corporate limits of any city or town; and no cemetery shall be hereafter established, and no burial made in any part of any cemetery, other than a municipal or city cemetery, located within 300 yards of any property owned by any city, town or water company, upon which or a portion of which are now located driven wells from which water is pumped or drawn from the ground in connection with the public water supply.

(2) B. Quantity of land. Nothing contained in §§ 57-22 to 57-25 shall be so construed as to authorize a conveyance of more than 300 acres or the condemnation of more than 2 acres of land for the use of a cemetery, except in counties having a population between 39,500 and [ ~~43,500~~ 39,550 as reported by the 1990 United States census and listed in the Appendix of the 1993 Acts of Assembly ] , where more than five acres of land for the use of a cemetery may be condemned.

(3) C. Action for damages. When damage is done to adjacent land by the establishment of such cemetery, whether established by purchase or condemnation, the owners whose lands have been damaged shall have a right to action for such damage against any person, firm, corporation, or municipality, establishing the cemetery; provided such action be instituted within one year from such establishment.

(4) D. Exceptions. The prohibitions and restrictions as to the location or establishment of cemeteries shall not apply to the town of Stuart, in Patrick County, to the town of Gretna, in Pittsylvania County, to the town of Shenandoah in Page County, or to the Woodbine Cemetery in the city of Harrisonburg, Rockingham County. And if the location for the proposed cemetery be in Norfolk County it may be established on such location if consent thereto be given by the owners of every residence within 250' thereof at its nearest point to any such residence, or if the location for the proposed cemetery is separated from any such residence by a state highway it may be established upon such location without the consent of the owner of such residence if it be not less than 150' from the residence at its nearest point thereto.

ENGROSSED

SB393E