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HOUSE BILL NO. 1736

Offered January 10, 2007

Prefiled December 22, 2006

A BILL to amend and reenact § 33.1-346 of the Code of Virginia, relating to littering; penalty.

Patron—Fralin

Referred to Committee on Transportation

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 or more than \$2,500, either or both.

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

D. There is hereby established in the state treasury a special nonreverting fund to be known as the Litter Awareness Fund (the Fund). The Fund shall be established on the books of the Comptroller. Any moneys remaining in the Fund at the end of each fiscal year, including interest, shall not revert to the general fund but shall remain in the Fund and be available for allocation in ensuing fiscal years. The Fund shall consist of any moneys collected by virtue of subsection E. The Department of Environmental Quality shall administer the Fund. Moneys in the Fund shall be used solely to fund a public awareness campaign educating the public about the harmful environmental effects of litter and that cigarette butts are considered litter.

E. Whenever a person is convicted by a court of competent jurisdiction of any of the offenses enumerated in this section, the court shall, in addition to any fees, fines, or costs imposed, order the person to pay a civil penalty of \$250 to be deposited into the Litter Awareness Fund. The court-ordered payment to the Fund shall be collected from the defendant by the court along with any other fines. The court shall remit the payment designated for the Fund to the Commonwealth.

ÐF. 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.

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

2. The Department of Environmental Quality shall prepare and implement a public awareness initiative for the purpose of educating individuals that cigarette butts are litter.

INTRODUCED

HB1736