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HOUSE BILL NO. 114

Offered January 11, 2012

Prefiled January 3, 2012

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

Patron—Morrissey

Referred to Committee for Courts of Justice

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, cigarettes, 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, cigarettes, 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. A violation of this section is a Class 1 misdemeanor.

B. ~~When any~~ If a 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~~ is ejected or removed from a motor vehicle, the owner or operator of such motor vehicle ~~shall be~~ is rebuttably 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 criminal penalty in subsection A, the court may order the defendant to perform community service in litter abatement activities, provided that if the offense involves a cigarette or cigarettes, the court shall order the payment of a \$100 civil penalty payable to the Litter Control and Recycling Fund established in § 10.1-1422.01 in addition to the imposition of such community service.

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.

INTRODUCED

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