

CHAPTER ~~6~~ 8.OFFENSES CONCERNING HIGHWAYS ~~AND TRAVELERS THEREON.~~

Drafting note: Existing Chapter 6 of Title 33.1 is retained as proposed Chapter 8 and placed in Subtitle II, Modes of Transportation.

§ ~~33.1-344~~ 33.2-800. "~~Road~~" ~~construed~~ Definition.

~~In this chapter, the word "road" shall be construed to mean any~~ As used in this article, "highway" means a state or county ~~road~~ highway.

Drafting note: "Road" was used interchangeably with "highway" in the sections in existing Chapter 6, so references to "road" are changed to "highway" in keeping with changes made throughout the proposed title.

§ ~~33.1-345~~ 33.2-801. Cutting or ~~injuring~~ damaging trees ~~near highways, injuring;~~ damaging bridges; damaging markers, ~~etc.~~; obstructing ~~roads, etc~~ highways; penalty.

Any person ~~shall be~~ is guilty of a Class 1 misdemeanor who ~~shall~~:

(1) ~~Cut~~ 1. Cuts or ~~injures~~ damages a tree within ~~fifty~~ 50 feet of a ~~road~~ highway so as to render it liable to fall and ~~leave~~ leaves it standing;

(2) ~~2.~~ Knowingly and willfully, without lawful authority, ~~break~~ breaks down, ~~destroy~~ destroys, or ~~injures~~ damages any bridge or log placed across a stream for the accommodation of pedestrians;

(3) ~~Obstruct~~ 3. Obstructs any ~~road~~ highway or any ditch made for the purpose of draining ~~any such road~~ the highway;

(4), (5) ~~[Repealed.]~~

(6) ~~4.~~ Willfully or maliciously ~~displace~~ displaces, ~~remove~~ removes, ~~destroy~~ destroys, or ~~injures~~ damages any highway sign or historical marker or any inscription thereon that is lawfully within a highway; or

(7) ~~Put~~ 5. Puts or ~~cast~~ casts into any public ~~road~~ highway any glass, bottles, glassware, crockery, porcelain or pieces thereof, caltrops or any pieces of iron or hard or sharp metal, or any nails, tacks, or sharp-pointed instruments of any kind, likely in their nature to cut or

28 puncture any tire of any vehicle or injure any animal traveling thereon. This subdivision shall
29 not apply to the use of any tire deflation device by a law-enforcement officer while in the
30 discharge of his official duties, provided the device was approved for use by the Division of
31 Purchase and Supply.

32 ~~(8) [Repealed.]~~

33 **Drafting note: "Caltrops," a device with four metal points so arranged that when**
34 **any three are on the ground the fourth projects upward as a hazard to the hooves of**
35 **horses or to pneumatic tires, is added to the list of metal that may not be put onto a**
36 **highway. Technical changes are made.**

37 § ~~33.1-346~~ 33.2-802. Dumping trash, ~~companion animals, etc. on highway, right-of-way~~
38 ~~or private property~~; penalty.

39 A. It shall be unlawful for any person to dump or otherwise dispose of trash, garbage,
40 refuse, litter, a companion animal as defined in § 3.2-6500 for the purpose of disposal, or other
41 unsightly matter; on public property, including a public highway, right-of-way, or property
42 adjacent to such highway or right-of-way, or on private property without the written consent of
43 the owner ~~thereof~~ or his agent.

44 B. When any person is arrested for a violation of this section, and the matter alleged to
45 have been illegally dumped or disposed of has been ejected from a motor vehicle or transported
46 to the disposal site in a motor vehicle, the arresting officer may comply with the provisions of §
47 46.2-936 in making ~~such an~~ arrest.

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

53 C. Any person convicted of a violation of this section ~~shall be~~ is guilty of a misdemeanor
54 punishable by confinement in jail for not more than 12 months and a fine of not less than \$250

55 or more than \$2,500, either or both. In lieu of the imposition of confinement in jail, the court
56 may order the defendant to perform a mandatory minimum of 10 hours of community service in
57 litter abatement activities.

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

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

63 **Drafting note: Existing § 33.1-346 was amended by Chapter 156 of the 2013 Acts of**
64 **Assembly, and those changes are reflected in the existing language here. A cross-reference**
65 **to the definition of "companion animal" is added in subsection A and "localities" replaces**
66 **"counties, cities and towns" in subsection D in accordance with the definition in § 1-221.**

67 ~~§ 33.1-346.1.~~

68 **Drafting note: Repealed by Acts 2013, c. 156.**

69 ~~§ 33.1-347~~ 33.2-803. Dump creating fire hazard to public bridge; penalty.

70 It shall be unlawful for any person to establish or maintain a public or private dump
71 containing ~~inflammable~~ flammable articles within ~~500'~~ 500 feet of any public bridge constructed
72 wholly or partly of wood so as to create a fire hazard to such bridge. Any person violating this
73 section ~~shall be~~ is guilty of a Class 1 misdemeanor ~~and punished as provided by law~~. Each day
74 of operation in violation ~~hereof of this section~~ shall constitute a separate offense. An offense
75 ~~hereunder in violation of this section~~ may be enjoined in the manner provided by law for the
76 abatement of public nuisances.

77 **Drafting note: "Inflammable" is changed to "flammable" for clarity, as both words**
78 **have the same meaning and flammable is used more often in the Code. The addition of**
79 **"Class 1" in describing the misdemeanor is added in keeping with the Code Commission**
80 **guidance that since misdemeanors with no stated punishment or maximum punishment**
81 **are designated as Class 1 misdemeanors according to § 18.2-12, they should be stated as**

82 **such in the Code when sections are amended or revised. Other changes are technical and**
83 **in keeping with current practice.**

84 § ~~33.1-348~~ 33.2-804. Junkyards; penalty.

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

91 ~~(b)~~ For the purpose of B. As used in this section ~~the following definitions shall apply:~~

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

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

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

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

107 (5) ~~"Primary highway" shall mean any highway within the State Highway System~~
108 primary state highway system as established and maintained under Article 2 (§ ~~33.1-25~~ 33.2-

109 ~~XXX~~ et seq.), ~~of~~ Chapter 1 ~~of this title~~, including extensions of such ~~System~~ system within
110 municipalities.

111 ~~(6)~~ "Federal-aid primary highway" ~~shall mean~~ means any highway within that portion of
112 the ~~State Highway System~~ primary state highway system as established and maintained under
113 Article ~~2~~ XXX (§ ~~33.1-25~~ 33.2-XXX et seq.); ~~of~~ Chapter ~~1 of this title~~ 2, including extensions of
114 such ~~System~~ system within municipalities, ~~which has~~ that have been approved by the U.S.
115 Secretary of Commerce pursuant to ~~§ of 103 of Title 23, United States Code~~ 23 U.S.C. §
116 103(b).

117 "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber,
118 debris, or waste; junked, dismantled, or wrecked automobiles or parts thereof; and old or scrap
119 iron, steel, or other ferrous or nonferrous material.

120 "Junkyard" means an establishment or place of business that is maintained, operated, or
121 used for storing, keeping, buying, or selling junk or for the maintenance or operation of an
122 automobile graveyard. "Junkyard" includes garbage dumps and sanitary landfills.

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

125 ~~(8)~~ "National Highway System" ~~shall mean the federal-aid highway system referenced in~~
126 ~~§ 103 of Title 23, United States Code, and regulations adopted pursuant thereto, which includes~~
127 ~~those highways that are designated as such by congressional action or designation by the U.S.~~
128 ~~Secretary of Transportation. Prior to congressional approval or designation by the U.S.~~
129 ~~Secretary of Transportation, highways classified as National System of Interstate and Defense~~
130 ~~Highways, Dwight D. Eisenhower National System of Interstate and Defense Highways,~~
131 ~~Interstate System, or federal-aid primary highways as that system existed on June 1, 1991, shall~~
132 ~~be considered as the National Highway System.~~

133 ~~(e)~~ C. No junkyard shall be ~~hereafter~~ established; any portion of which is within ~~1,000'~~
134 1,000 feet of the nearest edge of the right-of-way of any National Highway System highways or

135 | primary highway or within ~~500'~~ 500 feet of the nearest edge of the right-of-way of any other
136 | highway or city street, except the following:

137 | ~~(1)~~ 1. Junkyards ~~which that~~ are screened by natural objects, plantings, fences, or other
138 | appropriate means so as not to be visible from the main-traveled way of the highway or city
139 | street, or otherwise removed from sight.

140 | ~~(2)~~ 2. Junkyards ~~which that~~ are located in areas ~~which that~~ are zoned for industrial use
141 | under authority of state law or in unzoned industrial areas as determined by the ~~Commonwealth~~
142 | ~~Transportation~~ Board.

143 | ~~(3)~~ 3. Junkyards ~~which that~~ are not visible from the main-traveled way of the highway or
144 | city street.

145 | ~~(d)~~ D. Any junkyard lawfully in existence on April 4, 1968, ~~which that~~ is within ~~1,000'~~
146 | 1,000 feet of the nearest edge of the right-of-way and visible from the main-traveled way of any
147 | interstate or federal-aid primary highway, and not located within an industrial area, shall be
148 | screened, if feasible, by the Commissioner of Highways at locations on the highway right-of-
149 | way or in areas acquired for such purposes outside the right-of-way, so as not to be visible from
150 | the main-traveled way of such highways.

151 | Any junkyard lawfully in existence on April 4, 1968, ~~which that~~ is within ~~1,000'~~ 1,000
152 | feet of the nearest edge of the right-of-way of any other primary highway or within ~~500'~~ 500 feet
153 | of the nearest edge of the right-of-way of any other highway and visible from the main-traveled
154 | way of such highway, and not located within an industrial area, may be screened by the
155 | Commissioner of Highways in the same manner as junkyards adjacent to National Highway
156 | System highways.

157 | The Commissioner of Highways is ~~hereby~~ authorized to acquire by purchase, gift, or the
158 | power of eminent domain such lands or interests in lands as may be necessary to provide
159 | adequate screening of such junkyards.

160 | ~~(e)~~ E. When the Commissioner of Highways determines that the topography of the land
161 | adjoining a National Highway System highway will not permit adequate screening of such

162 junkyards or the screening of such junkyards would not be economically feasible, the
163 Commissioner of Highways shall have the authority to acquire by gift, purchase, or the power of
164 eminent domain; such interests in lands as may be necessary to secure the relocation, removal,
165 or disposal of the junkyards; and to pay for the costs of their relocation, removal, or disposal;
166 thereof. When the Commissioner of Highways determines that the topography of the land
167 adjoining any other highway will not permit adequate screening or such would not be feasible,
168 the Commissioner of Highways may exercise the same authority to relocate such junkyards as is
169 vested in him in regard to National Highway System highways.

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

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

177 ~~(h)~~ H. The Commissioner of Highways shall not be required to expend any funds for
178 screening or relocation under this section unless and until federal-aid matching funds are made
179 available for this purpose.

180 ~~(i)~~ I. Any person violating any provision of this section ~~shall be~~ is guilty of a Class 1
181 misdemeanor.

182 **Drafting note: Existing § 33.1-348 was amended by Chapter 127 of the 2013 Acts of**
183 **Assembly and those changes are reflected in the existing language here. Definitions are**
184 **placed in alphabetical order and further conformed to the style of the Code. The**
185 **definitions for "Interstate system" and "National Highway System" are stricken because**
186 **they are defined for the title in proposed § 33.2-100.**

187 **The addition of "Class 1" in describing the misdemeanor in subsection I is added in**
188 **keeping with the Code Commission guidance that since misdemeanors with no stated**

189 **punishment or maximum punishment are designated as Class 1 misdemeanors according**
190 **to § 18.2-12, they should be stated as such in the Code when sections are amended or**
191 **revised. Technical changes are made.**

192 | ~~§§ 33.1-349., 33.1-350.~~

193 **Drafting note: Repealed by Acts 1975, c. 589.**