

Chapter 42

OFFENSES AND MISCELLANEOUS PROVISIONS*

* **Charter References:** Authority of town to enact ordinances to prohibit all things detrimental to the health, safety, morals, convenience and welfare of the inhabitants of the town, § 26.

Cross References: Law enforcement, ch. 38; traffic and vehicles, ch. 66.

State Law References: Crimes and offenses generally, Code of Virginia, title 18.2; local ordinances prohibiting obscenity, Code of Virginia, § 18.2-389.

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ARTICLE I.

IN GENERAL

Secs. 42-1--42-25. Reserved.

ARTICLE II.

INCHOATE OFFENSES

Sec. 42-26. Attempts; aiding and abetting.

(a) Every person who attempts to commit an offense which is a misdemeanor shall be punished by the same punishment prescribed for the offense, the commission of which was the object of the attempt.

(b) It shall be unlawful for any person to aid or abet another in the commission or attempted commission of an offense which is a misdemeanor.

(c) It shall be unlawful for any person to attempt to avoid the doing of any act, the avoidance of which is a misdemeanor.

(d) It shall be unlawful for any person to aid or abet another in the avoidance or attempted avoidance of any act, the avoidance of which is a misdemeanor.

(Code 1992, § 15-2)

State Law References: Principals and accessories, Code of Virginia, § 18.2-18 et seq.; attempts to commit misdemeanors, Code of Virginia, § 18.2-27.

Secs. 42-27--42-55. Reserved.

ARTICLE III.

OFFENSES AGAINST THE PERSON

Sec. 42-56. Assault and battery.

Any person who commits a simple assault or assault and battery shall be guilty of a class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, color or national origin, the penalty upon conviction shall include a mandatory, minimum term of confinement of at least six months, 30 days of which shall not be suspended, in whole or in part.

(Code 1992, § 15-1)

State Law References: Similar provisions, Code of Virginia, § 18.2-57.

Secs. 42-57--42-80. Reserved.

ARTICLE IV.

OFFENSES AGAINST PROPERTY

Sec. 42-81. Petit larceny.

Any person who:

(1) Commits larceny from the person of another of money or other thing of value of less than \$5.00; or

(2) Commits simple larceny not from the person of another of goods and chattels of the value of less than \$200.00, except as provided in Code of Virginia, § 18.2-95(iii);

shall be deemed guilty of petit larceny, which shall be punishable as a class 1 misdemeanor.

(Code 1992, § 15-21)

State Law References: Similar provisions, Code of Virginia, § 18.2-96.

Sec. 42-82. Injuring or removing property, monument or memorial.

(a) If any person unlawfully destroys, defaces, damages or removes without the intent to steal any property, real or personal, not his own or breaks down, destroys, defaces, damages or removes without the intent to steal any monument or memorial for war veterans described in Code of Virginia, § 15.2-1812; any monument erected for the purpose of marking the site of any engagement fought during the War between the States; or for the purpose of designating the boundaries of any city, town, tract of land or any tree marked for that purpose, he shall be guilty of a class 3 misdemeanor; provided that the court may, in its discretion, dismiss the charge if the locality or organization responsible for maintaining the injured property, monument, or memorial files a written affidavit with the court stating it has received full payment for the injury.

(b) If any person intentionally causes such injury, he shall be guilty of a class 1 misdemeanor if the value of or damage to the property, memorial or monument is less than \$1,000.00. The amount of loss caused by the destruction, defacing, damage or removal of such property, memorial or monument may be established by proof of the fair market cost of repair or fair market replacement value. Upon conviction, the court may order that the defendant pay restitution.

(Code 1992, § 15-16)

State Law References: Similar provisions, Code of Virginia, § 18.2-137.

Sec. 42-83. Damaging public buildings or property.

(a) Any person who willfully and maliciously (i) breaks any window or door of any courthouse, house of public worship, college, schoolhouse, town hall, or other public building or library; (ii) damages or defaces any public building or any statuary in or on any public buildings or public grounds; or (iii) destroys any property in any of such buildings shall be guilty of a class 1 misdemeanor if the damage the property is less than \$1,000.00.

(b) Any person who willfully and unlawfully damages or defaces any book, newspaper, magazine, pamphlet, map, picture, manuscript, or other property located in any library, reading room, museum, or other educational institution shall be guilty of a class 1 misdemeanor if the damage to the property is less than \$1,000.00.

(Code 1992, § 15-5)

Cross References: Buildings and building regulations, ch. 14.

State Law References: Similar provisions, Code of Virginia, § 18.2-138.

Sec. 42-84. Breaking, injuring, defacing, destroying or preventing operation of vehicle, aircraft or boat.

Any person who shall individually or in association with one or more others willfully break, injure, tamper with or remove any part of any vehicle, aircraft, boat or vessel for the purpose of injuring, defacing or destroying such vehicle, aircraft, boat or vessel or temporarily or permanently preventing its useful operation or for any purpose, against the will or without the consent of the owner of such vehicle, aircraft, boat or vessel, or who shall in any other manner willfully or maliciously interfere with or prevent the running or operation of such vehicle, aircraft, boat or vessel shall be guilty of a class 1 misdemeanor.

(Code 1992, § 15-3)

State Law References: Similar provisions, Code of Virginia, § 18.2-146.

Sec. 42-85. Entering or setting in motion, vehicle, aircraft, boat, locomotive or rolling stock of railroad; exceptions.

(a) Any person who shall, without the consent of the owner or person in charge of a vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, climb into or upon such vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, with intent to commit any crime, malicious mischief, or injury thereto, or who, while a vehicle, aircraft, boat,

vessel, locomotive or other rolling stock of a railroad is at rest and unattended, shall attempt to manipulate any of the levers and starting crank or other device, brakes or mechanism thereof or to set into motion such vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, with the intent to commit any crime, malicious mischief, or injury thereto, shall be guilty of a class 1 misdemeanor.

(b) Subsection (a) of this section shall not apply when any such act is done in an emergency or in furtherance of public safety or by or under the direction of an officer in the regulation of traffic or performance of any other official duty.

(Code 1992, § 15-8)

State Law References: Similar provisions, Code of Virginia, § 18.2-147.

Sec. 42-86. Trespassing on railroad track.

(a) For purposes of this section, the term "track" shall mean the rail, ties, and ballast of the railroad.

(b) Any person who goes upon the track of a railroad other than to pass over such road at a public or private crossing or who willfully rides, drives or leads any animal or contrives for any animal to go on such track except to cross as provided in this subsection, without the consent of the railroad company or person operating such road, shall be guilty of a class 4 misdemeanor. A second violation of this subsection occurring within two years of the first violation shall be punishable as a class 3 misdemeanor. A third or subsequent violation of this subsection occurring within two years of a second or a subsequent violation shall be punishable as a class 1 misdemeanor. This section shall not apply to any section of track which has been legally abandoned pursuant to an order of a federal or state agency having jurisdiction over the track and is not being used for railroad service.

(Code 1992, § 15-28)

State Law References: Trespassing on railroad track, Code of Virginia, § 18.2-159.

Sec. 42-87. Trespassing on railroad trains.

If any person, not being a passenger or employee, shall be found trespassing upon any railroad car or train of any railroad in this town, by riding on any car or any part thereof, on its arrival, stay or departure at or from any station or depot of such railroad, or on the passage of any such car or train over any part of any such railroad, such person shall be guilty of a class 4 misdemeanor.

(Code 1992, § 15-29)

State Law References: Trespassing on railroad trains, Code of Virginia, § 18.2-160.

Secs. 42-88--42-115. Reserved.

ARTICLE V.

OFFENSES INVOLVING FRAUD

Sec. 42-116. Impersonating officer.

Any person who shall falsely assume or exercise the functions, powers, duties and privileges incident to the office of sheriff, police officer, marshal, or other peace officer or who shall falsely assume or pretend to be any such officer shall be deemed guilty of a class 1 misdemeanor.

(Code 1992, § 15-213(a))

State Law References: Similar provisions, Code of Virginia, § 18.2-174.

Sec. 42-117. Unlawful wearing of officer's uniform or insignia; unlawful use of vehicle with word "police" shown thereon.

No person, not such an officer as is referred to in Code of Virginia, § 19.2-78, shall wear any such uniform as is designated pursuant to such section or wear an insignia or markings containing the seal of the commonwealth or the insignia of any such officer's uniform, nor shall any person not such an officer or not authorized by such officer or not authorized by the military police of the armed forces or of the national guard or not authorized by the military police of other governmental agencies use or cause to be used on the public roads or highways of this commonwealth any motor vehicle bearing markings with the word "police" shown thereon. However, the prohibition against wearing an insignia or markings containing the seal of the commonwealth shall not apply to any certified firefighter or to any certified or licensed emergency medical personnel. Any violation of this section shall be a class 1 misdemeanor.

(Code 1992, § 15-213(b))

State Law References: Similar provisions, Code of Virginia, § 18.2-175.

Sec. 42-118. Calling or summoning ambulance or firefighting apparatus without just cause; maliciously activating fire alarms in public buildings; venue.

(a) Any person who, without just cause therefor, calls or summons, by telephone or otherwise, any ambulance, or firefighting apparatus or any person who maliciously activates a manual or automatic fire alarm in any building used for public assembly or for other public use, including but not limited to schools, theaters, stores, office buildings, shopping centers and malls, coliseums and arenas, regardless of whether fire apparatus responds or not, shall be deemed guilty of a class 1 misdemeanor.

(b) A violation of this section may be prosecuted either in the jurisdiction from which the call or summons was made or in the jurisdiction where the call or summons was received.

(Code 1992, § 15-4)

State Law References: Similar provisions, Code of Virginia, § 18.2-212.

Sec. 42-119. False alarm of explosion.

No person shall knowingly give or cause to be given any false alarm of explosion or impending danger of explosion.

(Code 1992, § 15-10)

Secs. 42-120--42-145. Reserved.

ARTICLE VI.

OFFENSES INVOLVING HEALTH AND SAFETY

DIVISION 1.

GENERALLY

Sec. 42-146. Throwing or depositing certain substances upon highway.

(a) No person shall throw or deposit or cause to be deposited upon any highway any glass bottle, glass, nail, tack, wire, can, or any other substance likely to injure any person or animal or damage any vehicle upon such highway, nor shall any person throw or deposit or cause to be deposited upon any highway any soil, sand, mud, gravel or other substances so as to create a hazard to the traveling public. Any person who drops or permits to be dropped or thrown upon any highway any destructive, hazardous or injurious material shall immediately remove the material or cause it to be removed. Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle. Any person violating this section shall be guilty of a class 1 misdemeanor.

(b) This section shall not apply to the use, by a law-enforcement officer while in the discharge of official duties, of any device designed to deflate tires. The state division of purchase and supply shall, pursuant to Code of Virginia, § 2.2-1112, set minimum standards for such devices and shall give notice of such standards to law-enforcement offices in the commonwealth. No such device shall be used which does not meet or exceed the standards.

(Code 1992, § 15-26)

Cross References: Streets, sidewalks and other public places, ch. 58.

State Law References: Similar provisions, Code of Virginia, § 18.2-324.

Sec. 42-147. Throwing stone or missile in streets.

It shall be unlawful for anyone to throw a stone or other missile, including bottles, beer cans or trash of any nature or description, in the streets.

(Code 1992, § 15-25)

Cross References: Streets, sidewalks and other public places, ch. 58.

State Law References: Throwing missiles at train, car, vessel, etc., Code of Virginia, § 18.2-154; throwing missiles at occupied buildings, Code of Virginia, § 18.2-279.

Sec. 42-148. Games in or on streets.

(a) It shall be unlawful for any person to play at any game along, in or on the public streets of the town.

(b) Any person violating this section shall be guilty of a class 4 misdemeanor for every offense.

(Code 1992, § 15-11)

Cross References: Streets, sidewalks and other public places, ch. 58.

Secs. 42-149--42-175. Reserved.

DIVISION 2.

WEAPONS*

* **Cross References:** Weapons; vicious animals, § 58-150.

State Law References: Control of firearms, Code of Virginia, § 15.2-915.

Sec. 42-176. Discharge of air rifles.

It shall be unlawful for any person to use or shoot an air rifle, BB gun and like pistol or gun on public property in the town.

(Code 1992, § 15-240)

Sec. 42-177. Discharge of firearms.

It shall be unlawful for any person to willfully discharge or cause to be discharged any firearm in

this town. This section shall not apply to any law-enforcement officer in the performance of his official duties nor to any other person whose willful act is otherwise justifiable or excusable at law in the protection of his life or property or is otherwise specifically authorized by law.

(Code 1992, § 15-236)

State Law References: Similar provisions, Code of Virginia, § 18.2-280.

Sec. 42-178. Pointing, holding, or brandishing firearm or object similar in appearance.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Ammunition means a cartridge, pellet, ball, missile or projectile adapted for use in a firearm.

Firearm means any weapon in which ammunition may be used or discharged by explosion or pneumatic pressure.

(b) It shall be unlawful for any person to point, hold or brandish any firearm or any object similar in appearance to a firearm, whether capable of being fired or not, in such manner as to reasonably induce fear in the mind of another or hold a firearm in a public place in such a manner as to reasonably induce fear in the mind of another of being shot or injured. However, this section shall not apply to any person engaged in excusable or justifiable self-defense. Persons violating this section shall be guilty of a class 1 misdemeanor.

(c) Any police officer in the performance of his duty, in making an arrest under this section, shall not be civilly liable in damages for injuries or death resulting to the person being arrested if he had reason to believe that the person being arrested was pointing, holding, or brandishing such firearm or object which was similar in appearance to a firearm with intent to induce fear in the mind of another.

(Code 1992, § 15-237)

State Law References: Similar provisions, Code of Virginia, § 18.2-282.

Sec. 42-179. Carrying concealed weapons.

(a) If any person carries about his person, hidden from common observation, (i) any pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material; (ii) any dirk, Bowie knife, switchblade knife, ballistic knife, razor, slingshot, spring stick, metal knucks, or blackjack; (iii) any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; (iv) any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart; or (v) any weapon of like kind as those enumerated in this subsection, he shall be guilty of a class 1 misdemeanor. Any weapon used in the commission of a violation of this section shall be forfeited to the commonwealth and may be seized by an officer as forfeited, and such as may be needed for police officers, conservators of the peace, and the state division of forensic science shall be devoted to that purpose, subject to any registration requirements of federal law, and the remainder shall be disposed of as provided in Code of Virginia, § 18.2-310. For the purpose of this section, a weapon shall be deemed to be hidden from common observation when it is observable but is of such deceptive appearance as to disguise the weapon's true nature.

(b) This section shall not apply to any person while in his own place of abode or the curtilage thereof. Except as provided in Code of Virginia, § 18.2-308(J1), this section shall not apply to the following:

(1) Any person while in his own place of business;

(2) Any police officers, including capitol police officers, sergeants, sheriffs, deputy sheriffs or regular game wardens appointed pursuant to Code of Virginia, § 29.1-200 et seq.;

(3) Any regularly enrolled member of a target shooting organization who is at or going to or from an established shooting range, provided that the weapons are unloaded and securely wrapped while being transported;

(4) Any regularly enrolled member of a weapons collecting organization who is at or going to or from a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped while being transported;

(5) Any person carrying such weapons between his place of abode and a place of purchase or repair, provided the weapons are unloaded and securely wrapped while being transported;

(6) Campus police officers appointed pursuant to Code of Virginia, § 23-232 et seq.;

(7) Any person actually engaged in lawful hunting, as authorized by the state board of game and inland fisheries, under inclement weather conditions necessitating temporary protection of his firearm from those conditions; and

(8) Any state police officer retired from the department of state police, any local law-enforcement officer retired from a police department or sheriff's office within the commonwealth and any special agent retired from the state alcoholic beverage control board (i) with a service-related disability or (ii) following at least 15 years of service with any such law-enforcement agency, board or any combination thereof, other than a person terminated for cause, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or, in the case of special agents, issued by the state alcoholic beverage control board. A copy of the proof of consultation and favorable review shall be forwarded by the chief or the board to the department of state police for entry into the state criminal information network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. For purposes of applying the reciprocity provisions of Code of Virginia, § 18.2-308(P), any person granted the privilege to carry a concealed handgun pursuant to this subsection, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

(c) This section shall also not apply to any of the following individuals while in the discharge of their official duties or while in transit to or from such duties:

- (1) Carriers of the United States mail;

(2) Officers or guards of any state correctional institution;

(3) Conservators of the peace, except that the following conservators of the peace shall not be permitted to carry a concealed handgun without obtaining a permit as provided in Code of Virginia, § 18.2-308(D):

a. Notaries public;

b. Registrars;

c. Drivers, operators or other persons in charge of any motor vehicle carrier of passengers for hire; or

d. Commissioners in chancery;

(4) Noncustodial employees of the state department of corrections designated to carry weapons by the director of the department of corrections pursuant to Code of Virginia, § 53.1-29;

(5) Law-enforcement agents of the armed forces of the United States and federal agents who are otherwise authorized to carry weapons by federal law while engaged in the performance of their duties; and

(6) Law-enforcement agents of the United States Naval Criminal Investigative Service.

(Code 1992, § 15-238)

State Law References: Similar provisions, Code of Virginia, § 18.2-308.

Sec. 42-180. Furnishing certain weapons to minors.

If any person sells, barter, gives or furnishes or causes to be sold, bartered, given or furnished to any minor a dirk, switchblade knife or Bowie knife, having good cause to believe him to be a minor, such person shall be guilty of a class 1 misdemeanor.

(Code 1992, § 15-18)

State Law References: Similar provisions, Code of Virginia, § 18.2-309.

Sec. 42-181. Prohibiting the selling or having in possession certain weapons.

If any person sells or barter or exhibits for sale or for barter or gives or furnishes or causes to be sold, bartered, given or furnished or has in his possession or under his control, with the intent of selling, bartering, giving or furnishing, any blackjack, any brass or metal knucks, any disc of whatever configuration having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, any switchblade knife, any ballistic knife, or like weapons, such person shall be guilty of a class 4 misdemeanor. The having in one's possession of any such weapon shall be prima facie evidence, except for a conservator of the peace, of his intent to sell, barter, give or furnish the weapon.

(Code 1992, § 15-239)

State Law References: Similar provisions, Code of Virginia, § 18.2-311.

Secs. 42-182--42-210. Reserved.

ARTICLE VII.

OFFENSES INVOLVING MORALS AND DECENCY

DIVISION 1.

GENERALLY

Sec. 42-211. Drinking alcoholic beverages or tendering to another in public place.

(a) If any person takes a drink of alcoholic beverages or offers a drink thereof to another, whether accepted or not, at or in any public place, he shall be guilty of a class 4 misdemeanor.

(b) This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any rooms or areas approved by the state alcoholic beverage control board in a licensed establishment, provided such establishment or the person who operates the establishment is licensed to sell alcoholic beverages at retail for on-premises consumption and the alcoholic beverages drunk or offered were purchased therein.

(c) This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any room or area approved by the board at an event for which a banquet license or mixed beverage special events license has been granted; nor shall this section prevent, upon authorization of the licensee, any person from drinking his own lawfully acquired alcoholic beverages or offering a drink thereof to another in approved areas and locations at events for which a coliseum or stadium license has been granted.

(d) This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another on a chartered boat being used for the transportation of passengers for compensation which is not licensed by the board and which does not sell

alcoholic beverages.

(Code 1992, § 15-7)

Charter References: Prohibition ordinances, § 33.

State Law References: Alcoholic Beverage Control Act, Code of Virginia, title 4.1; similar provisions, Code of Virginia, § 4.1-308; determining alcohol or drug content of blood, Code of Virginia, § 18.2-267 et seq.; incorporation by reference of certain offenses, traffic rules, etc., Code of Virginia, § 46.2-1313.

Sec. 42-212. Profane swearing and intoxication in public; transportation of public inebriates to detoxification center.

If any person profanely curses or swears or is intoxicated in public, whether such intoxication results from alcohol, narcotic drug or other intoxicant or drug of whatever nature, he shall be deemed guilty of a class 4 misdemeanor. In any area in which there is located a court-approved detoxification center, a law-enforcement officer may authorize the transportation, by police or otherwise, of public inebriates to such detoxification center in lieu of arrest. However, no person shall be involuntarily detained in such center.

(Code 1992, § 15-23)

State Law References: Similar provisions, Code of Virginia, § 18.2-388.

Secs. 42-213--42-240. Reserved.