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AB-2598 Cities and counties: ordinances: violations. (2017-2018)

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Assembly Bill No. 2598

CHAPTER 970

An act to amend Sections 25132 and 36900 of the Government Code, relating to local government.

[Approved by Governor September 30, 2018. Filed with Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2598, Quirk. Cities and counties: ordinances: violations.

Existing law authorizes the legislative body of a city or a county to make, by ordinance, any violation of an ordinance subject to an administrative fine or penalty and limits the maximum fine or penalty amounts for infractions, to \$100 for the first violation, \$200 for a 2nd violation of the same ordinance within one year of the first violation, and \$500 for each additional violation of the same ordinance within one year of the first violation. For violations of city or county building and safety codes determined to be an infraction, existing law limits the amount of the fine to \$100 for a first violation, \$500 for a 2nd violation of the same ordinance within one year, and \$1,000 for each additional violation of the same ordinance within one year of the first violation.

The bill would, for violations of a local building and safety code determined to be an infraction, increase the amounts of the fines to \$130 for a first violation, \$700 for a 2nd violation of the same ordinance within one year, and \$1,300 for each additional violation of the same ordinance within one year of the first violation. The bill would additionally provide for a fine of \$2,500 for each additional violation of the same ordinance within 2 years of the first violation if the property is a commercial property that has an existing building at the time of the violation and the violation is of a local building and safety code that is an infraction and is due to failure by the owner to remove visible refuse or failure to prohibit unauthorized use of the property.

The bill would additionally require a city or county levying fines pursuant to these provisions to establish a process for granting a hardship waiver to reduce the amount of the fine for a second or third violation of the same ordinance or local building and safety code that is an infraction upon a showing by the responsible party that the responsible party has made a bona fide effort to comply after the first violation and that payment of the full amount of the fine would impose an undue financial burden on the responsible party.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 25132 of the Government Code is amended to read:

25132. (a) Violation of a county ordinance is a misdemeanor unless by ordinance it is made an infraction. The violation of a county ordinance may be prosecuted by county authorities in the name of the people of the State of California, or redressed by civil action.

(b) Every violation that is an infraction is punishable by the following:

(1) A fine not exceeding one hundred dollars (\$100) for a first violation.

(2) A fine not exceeding two hundred dollars (\$200) for a second violation of the same ordinance within one year of the first violation.

(3) A fine not exceeding five hundred dollars (\$500) for each additional violation of the same ordinance within one year of the first violation.

(c) Notwithstanding any other law, a violation of local building and safety codes that is an infraction is punishable by the following:

(1) A fine not exceeding one hundred thirty dollars (\$130) for a first violation.

(2) A fine not exceeding seven hundred dollars (\$700) for a second violation of the same ordinance within one year of the first violation.

(3) (A) A fine not exceeding one thousand three hundred dollars (\$1,300) for each additional violation of the same ordinance within one year of the first violation.

(B) A fine not exceeding two thousand five hundred dollars (\$2,500) for each additional violation of the same ordinance within two years of the first violation if the property is a commercial property that has an existing building at the time of the violation and the violation is due to failure by the owner to remove visible refuse or failure to prohibit unauthorized use of the property.

(d) A county levying a fine pursuant to paragraphs (2) and (3) of subdivisions (b) and (c) shall establish a process for granting a hardship waiver to reduce the amount of the fine upon a showing by the responsible party that the responsible party has made a bona fide effort to comply after the first violation and that payment of the full amount of the fine would impose an undue financial burden on the responsible party.

(e) (1) Notwithstanding any other law, including subdivisions (b) and (c), a violation of an event permit requirement that is an infraction is punishable by the following:

(A) A fine not exceeding one hundred fifty dollars (\$150) for the first violation of an event permit requirement.

(B) A fine not exceeding seven hundred dollars (\$700) for a second occurrence of the same violation of an event permit requirement by the same owner or operator within three years of the first violation.

(C) A fine not exceeding two thousand five hundred dollars (\$2,500) for each additional occurrence of the same violation of an event permit requirement by the same owner or operator within three years of the first violation.

(2) (A) For purposes of this subdivision, "violation of an event permit requirement" means failure to obtain a permit required for a professionally organized special event on private property that is commercial in nature, or from which the owner or operator derives a commercial benefit.

(B) For purposes of this paragraph, the following definitions apply:

(i) "Commercial in nature" means that a primary purpose of the special event is to derive an economic benefit resulting from the holding of the event through admission charges or sales of merchandise that occur as part of the event.

(ii) "Commercial benefit" means any remuneration received in exchange for allowing the property on which the event occurs to be used for the event, including any remuneration that results from the rental of the property for a term of less than 31 consecutive days.

SEC. 2. Section 36900 of the Government Code is amended to read:

36900. (a) Violation of a city ordinance is a misdemeanor unless by ordinance it is made an infraction. The violation of a city ordinance may be prosecuted by city authorities in the name of the people of the State of California, or redressed by civil action.

(b) Every violation determined to be an infraction is punishable by the following:

(1) A fine not exceeding one hundred dollars (\$100) for a first violation.

(2) A fine not exceeding two hundred dollars (\$200) for a second violation of the same ordinance within one year.

(3) A fine not exceeding five hundred dollars (\$500) for each additional violation of the same ordinance within one year.

(c) Notwithstanding any other provision of law, a violation of local building and safety codes determined to be an infraction is punishable by the following:

(1) A fine not exceeding one hundred thirty dollars (\$130) for a first violation.

(2) A fine not exceeding seven hundred dollars (\$700) for a second violation of the same ordinance within one year.

(3) (A) A fine not exceeding one thousand three hundred dollars (\$1,300) for each additional violation of the same ordinance within one year of the first violation.

(B) A fine not exceeding two thousand five hundred dollars (\$2,500) for each additional violation of the same ordinance within two years of the first violation if the property is a commercial property that has an existing building at the time of the violation and the violation is due to failure by the owner to remove visible refuse or failure to prohibit unauthorized use of the property.

(d) A city levying a fine pursuant to paragraphs (2) and (3) of subdivisions (b) and (c) shall establish a process for granting a hardship waiver to reduce the amount of the fine upon a showing by the responsible party that the responsible party has made a bona fide effort to comply after the first violation and that payment of the full amount of the fine would impose an undue financial burden on the responsible party.