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SB-60 Residential short-term rental ordinances: health or safety infractions: maximum fines. (2021-2022)

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Senate Bill No. 60

CHAPTER 307

An act to amend Sections 25132 and 36900 of the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 2021. Filed with Secretary of State September 24, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 60, Glazer. Residential short-term rental ordinances: health or safety infractions: maximum fines.

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. Existing law also sets specific monetary limits on the fines that may be imposed by city or county authorities for any violation of local building and safety codes that is an infraction, as prescribed. Existing law requires a city or county levying fines pursuant to these provisions to establish a process for granting a hardship waiver in certain cases.

This bill would, notwithstanding those provisions and with certain exceptions, raise the maximum fines for violation of an ordinance relating to a residential short-term rental, as defined, that is an infraction and poses a threat to health or safety, to \$1,500 for a first violation, \$3,000 for a 2nd violation of the same ordinance within one year, and \$5,000 for each additional violation of the same ordinance within one year of the first violation. The bill would make these violations subject to the process for granting a hardship waiver.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 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) (1) Notwithstanding any other law, including subdivisions (b), (c), and (e), 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 upon 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.

(e) (1) Notwithstanding any other law, including subdivisions (b), (c), and (d), the violation of a short-term rental ordinance that is an infraction is punishable by the following:

(A) A fine not exceeding one thousand five hundred dollars (\$1,500) for a first violation.

(B) A fine not exceeding three thousand dollars (\$3,000) for a second violation of the same ordinance within one year.

(C) A fine not exceeding five thousand dollars (\$5,000) for each additional violation of the same ordinance within one year of the first violation.

(2) For purposes of this section, "short-term rental" means a residential dwelling, or any portion of a residential dwelling, that is rented to a person or persons for 30 consecutive days or less.

(3) For purposes of this section, "residential dwelling" means a private structure designed and available, pursuant to applicable law, for use and occupancy as a residence by one or more individuals. "Residential dwelling" does not include a commercially operated hotel, motel, bed and breakfast inn, or time-share property as defined by subdivision (aa) of Section 11212 of the Business and Professions Code.

(4) The fine limits set by this subdivision apply only to infractions that pose a threat to public health or safety. The fines described in this subdivision shall not apply to a first time offense of failure to register or pay a business license fee. Nothing in this subdivision limits the authority of a county, or city and county, to establish lower fines for specific violations by ordinance.

(f) A county levying a fine pursuant to paragraphs (2) and (3) of subdivisions (b) and (c), and paragraph (1) of subdivision (e), shall establish a process for granting a hardship waiver to reduce the amount of the fine upon a showing by a 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.

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 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) (1) Notwithstanding any other law, including subdivisions (b) and (c), the violation of a short-term rental ordinance that is an infraction is punishable by the following:

- (A) A fine not exceeding one thousand five hundred dollars (\$1,500) for a first violation.
 - (B) A fine not exceeding three thousand dollars (\$3,000) for a second violation of the same ordinance within one year.
 - (C) A fine not exceeding five thousand dollars (\$5,000) for each additional violation of the same ordinance within one year of the first violation.
- (2) For purposes of this section, "short-term rental" means a residential dwelling, or any portion of a residential dwelling, that is rented to a person or persons for 30 consecutive days or less.
- (3) For purposes of this section, "residential dwelling" means a private structure that is designed and available, pursuant to applicable law, for use and occupancy by one or more individuals. "Residential dwelling" does not include a commercially operated hotel, motel, bed and breakfast inn, or a time-share property as defined by subdivision (aa) of Section 11212 of the Business and Professions Code.
- (4) The fine limits set by this subdivision apply only to infractions that pose a threat to public health or safety. The fines described in this subdivision shall not apply to a first time offense of failure to register or pay a business license fee. Nothing in this subdivision limits the authority of a city, or city and county, to establish lower fines for specific violations by ordinance.

(e) A city levying a fine pursuant to paragraphs (2) and (3) of subdivisions (b) and (c), and paragraph (1) of subdivision (d), 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.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to the severe strain on public resources as restrictions related to COVID-19 are lifted statewide, it is necessary that this act take effect immediately.