

Sec. 6. Section 362.5, subsection 11, Code 1989, is amended by striking the subsection.

Approved April 27, 1990

## CHAPTER 1210

### ENVIRONMENTAL INFRACTIONS

*H.F. 2412*

**AN ACT** providing for the enactment of municipal infractions relating to the environment and providing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 364.22, subsection 1, Code Supplement 1989, is amended to read as follows:

1. A municipal infraction is a civil offense punishable by a civil penalty of not more than one hundred dollars for each violation or if the infraction is a repeat offense, a civil penalty not to exceed two hundred dollars for each repeat offense. However, notwithstanding section 364.3, a municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. § 403.8, by an industrial user may be punishable by a civil penalty of not more than one thousand dollars for each day a violation exists or continues.

A city may classify a municipal infraction, other than a violation arising from noncompliance with a pretreatment standard or requirement, as an environmental violation if the infraction is a violation of chapter 455B or a violation of a standard established by the city in consultation with the department of natural resources, or both. The discharge of airborne residue from grain, created by the handling, drying, or storing of grain by a person, shall not be subject to an ordinance, the violation of which is classified as an environmental violation, unless the person is engaged in industrial production or manufacturing of grain products. The discharge of airborne residue from grain, created by the handling, drying, or storing of grain by a person engaged in industrial production or manufacturing of grain products, shall not be subject to an ordinance, the violation of which is classified as an environmental violation, if the discharge occurs from September 15 to January 15. A municipal infraction which is classified an environmental violation is punishable by a civil penalty of not more than one thousand dollars for each occurrence. A person committing an environmental violation is not subject to a civil penalty, if all of the following conditions are satisfied:

a. The violation results solely from the person conducting an initial start-up, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown, of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.

b. The person notifies the city of the violation within twenty-four hours from the time that the violation begins.

c. The violation does not continue in existence for more than eight hours.

A city shall not enforce this section against a person committing an environmental violation, until the city offers to participate in informal negotiations with the person. If the person accepts the offer, the city and the person shall participate in good faith negotiations to resolve issues alleged to be the basis for the violation.

Sec. 2. Section 364.22, subsection 5, paragraph a, Code Supplement 1989, is amended to read as follows:

a. The matter shall be tried before a magistrate, or a district associate judge, or a district judge in district court if the total amount of civil penalties does not exceed two thousand dollars in the same manner as a small claim. The matter shall only be tried before a judge in district court if the total amount of civil penalties assessed exceeds two thousand dollars.

Sec. 3. Section 364.22, subsection 9, paragraph e, unnumbered paragraph 3, Code Supplement 1989, is amended to read as follows:

The A magistrate or district associate judge shall have jurisdiction to assess or enter judgment for costs of abatement or correction in an amount not to exceed the jurisdictional amount for a money judgment in a civil action pursuant to section 631.1, subsection 1, for magistrates and section 602.6306, subsection 2, for district associate judges. If the city seeks abatement or correction costs in excess of those amounts, and the matter is not before a judge in district court, the case shall be referred to the district court for hearing and entry of an appropriate order. The procedure for hearing in the district court shall be the same procedure as that for a small claims appeal pursuant to section 631.13.

Sec. 4. Section 364.22, subsection 10, Code Supplement 1989, is amended to read as follows:

10. The defendant or the city may file a motion for a new trial or may appeal the decision of ~~the a~~ magistrate, ~~or~~ district associate judge, ~~or a~~ district judge to the district court. The procedure on appeal shall be the same as for a small claim pursuant to section 631.13. A factual determination made by the trial court, supported by substantial evidence as shown in the record, is binding for purposes of appeal relating to the violation at issue, but shall not be admissible or binding as to any future violation for the same or similar ordinance provision by the same defendant.

Sec. 5. Section 364.22, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 13. An action brought pursuant to this section for a municipal infraction which is an environmental violation does not preclude, and is in addition to, any other enforcement action which may be brought pursuant to chapter 455B, 455D, or 455E.

Sec. 6.

If a conflict exists between a provision of this Act, as enacted, and 1990 Iowa Acts, Senate File 2393, as enacted, the provision contained in this Act shall prevail.

Approved April 27, 1990

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## CHAPTER 1211

### TENANT RESPONSIBILITY FOR WATER SERVICES

*H.F. 2557*

**AN ACT** relating to the filing of liens against property for nonpayment of city utility or enterprise charges.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 384.84, subsection 1, Code 1989, is amended to read as follows:

1. The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise and, when revenue bonds or pledge orders are issued and outstanding pursuant to this division, shall establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise, and to leave a balance of net revenues sufficient at all times to pay the principal of and interest on the revenue bonds and pledge orders as they become due and to maintain a reasonable reserve for the payment