

FILED MAR 07 1989

*Withdrawn 4-13-89 (p.1420)
From further
consideration*

SENATE FILE 372
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO LSB 2250SC)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

3690 1 An Act relating to the use of county and municipal infractions.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

SF 372

1 Section 1. Section 331.307, subsection 4, unnumbered
2 paragraph 1, Code 1989, is amended to read as follows:

3451-3 An officer authorized by a county to enforce a county code
4 or regulation may issue a civil citation to a person who
5 commits a county infraction. The citation may be served by
6 personal service or as provided in rule of civil procedure
7 56.1, by certified mail addressed to the defendant at the
8 defendant's last known mailing address, return receipt
9 requested, or by publication as provided in rule of civil
10 procedure 60. A copy of the citation shall be retained by the
11 issuing officer, and one copy shall be sent to the clerk of
12 the district court. The citation shall serve as notification
13 that a civil offense has been committed and shall contain the
14 following information:

15 Sec. 2. Section 331.307, subsection 5, Code 1989, is
16 amended by adding the following new paragraph a, and
17 relettering the remaining paragraphs:

18 NEW PARAGRAPH. a. The matter shall be tried before a
19 magistrate or district associate judge in the same manner as a
20 small claim.

21 Sec. 3. Section 331.307, subsections 9 and 10, Code 1989,
22 are amended to read as follows:

23 9. When judgment has been entered against a defendant, the
24 court may ~~impose a civil penalty or may grant appropriate~~
25 ~~relief to abate or halt the violation, or both, and the court~~
26 ~~may direct that payment of the civil penalty be suspended or~~
27 ~~deferred under conditions established by the court.~~ do any of
28 the following:

29 a. Impose a civil penalty by entry of a personal judgment
30 against the defendant.

31 b. Direct that payment of the civil penalty be suspended
32 or deferred under conditions imposed by the court.

33 c. Grant appropriate alternative relief ordering the
34 defendant to abate or cease the violation.

35 d. Authorize the county to abate or correct the violation.

1 e. Order that the county's costs for abatement or
2 correction of the violation be entered as a personal judgment
3 against the defendant or assessed against the property where
4 the violation occurred, or both.

5 PARAGRAPH DIVIDED. If a defendant willfully fails-to-pay
6 ~~the-civil-penalty-or~~ violates the terms of any-other an order
7 imposed by the court, the failure is contempt.

3090
3454, 3386

8 10. A The defendant against-whom-a-judgment-is-entered or
9 the county may file a motion for a new trial or a-motion-for-a
10 reversal-of-a-judgment-as-provided-by-law-or-rule-of-civil
11 procedure may appeal the decision of the magistrate or
12 district associate judge to the district court. The appeal
13 shall be determined on the record made in the trial court. A
14 factual determination made by the trial court, and supported
15 by substantial evidence as shown in the record, is binding on
16 the district court for purposes of appeal of the violation at
17 issue, but is not admissible or binding at any subsequent
18 proceeding for prosecution of the same or a similar violation
19 by the same defendant.

20 Sec. 4. Section 331.307, subsection 12, Code 1987, is
21 amended to read as follows:

22 12. The issuance of a civil citation for a county
23 infraction or the ensuing court proceedings do not provide an
24 action for false arrest, false imprisonment, or malicious
25 prosecution.

26 Sec. 5. Section 364.22, subsection 4, unnumbered paragraph
27 1, Code 1989, is amended to read as follows:

3454-

28 An officer authorized by a city to enforce a city code or
29 regulation may issue a civil citation to a person who commits
30 a municipal infraction. The citation may be served by
31 personal service or as provided in rule of civil procedure
32 56.1, by certified mail addressed to the defendant at the
33 defendant's last known mailing address, return receipt
34 requested, or by publication as provided in rule of civil
35 procedure 60. A copy of the citation shall be retained by the

1 issuing officer, and one copy shall be sent to the clerk of
2 the district court. The citation shall serve as notification
3 that a civil offense has been committed and shall contain the
4 following information:

5 Sec. 6. Section 364.22, subsection 5, unnumbered paragraph
6 1, Code 1989, is amended to read as follows:

7 In ~~proceedings-before-the-court-for-a~~ municipal infraction
8 proceedings:

9 Sec. 7. Section 364.22, subsection 5, Code 1989, is
10 amended by adding the following new paragraph a and
11 relettering the remaining paragraphs:

12 NEW PARAGRAPH. a. The matter shall be tried before a
13 magistrate or district associate judge in the same manner as a
14 small claim.

15 Sec. 8. Section 364.22, subsections 9, 10, and 12, Code
16 1989, are amended to read as follows:

17 9. When judgment has been entered against a defendant, the
18 court may ~~impose-a-civil-penalty-or-may-grant-appropriate~~
19 ~~relief-to-abate-or-halt-the-violation,-or-both,-and-the-court~~
20 ~~may-direct-that-payment-of-the-civil-penalty-be-suspended-or~~
21 ~~deferred-under-conditions-established-by-the-court:~~ do any of
22 the following:

23 a. Impose a civil penalty by entry of a personal judgment
24 against the defendant.

25 b. Direct that payment of the civil penalty be suspended
26 or deferred under conditions imposed by the court.

27 c. Grant appropriate alternative relief ordering the
28 defendant to abate or cease the violation.

29 d. Authorize the city to abate or correct the violation.

30 e. Order that the city's costs for abatement or correction
31 of the violation be entered as a personal judgement against
32 the defendant or assessed against the property where the
33 violation occurred, or both.

34 PARAGRAPH DIVIDED. If a defendant willfully ~~fails-to-pay~~
35 ~~the-civil-penalty-or~~ violates the terms of any other an order

3454
3355-2 352

1 imposed by the court, the failure is contempt.
2 10. A The defendant against whom a judgement is entered or
3 the city may file a motion for a new trial or a motion for a
4 reversal of a judgment as provided by law or rule of civil
5 procedure may appeal the decision of the magistrate or
6 district associate judge to the district court. The appeal
7 shall be determined on the record made in the trial court. A
8 factual determination made by the trial court, and supported
9 by substantial evidence as shown in the record, shall be
10 binding on the district court for purposes of appeal of the
11 violation at issue, but is not admissible or binding at any
12 subsequent proceeding for prosecution of the same or a similar
13 violation by the same defendant.

14 12. The issuance of a civil citation for a municipal
15 infraction or the ensuing court proceedings do not provide an
16 action for false arrest, false imprisonment, or malicious
17 prosecution.

18 Sec. 9. Section 331.307, subsection 12, Code 1987, which
19 was inadvertently omitted in the 1987 Code Supplement and the
20 1989 Code, shall be published in the 1989 Code Supplement,
21 with the amendment enacted in this Act.

22 EXPLANATION

23 This bill relates to county and municipal infractions, and
24 amends existing law by allowing service of notice to be
25 published according to the rules of civil procedure. The bill
26 provides that county and municipal infractions be tried to the
27 court in the same manner as a small claim, and that a personal
28 judgment may be entered against a defendant in addition to
29 other authority provided to the court. The bill allows a
30 defendant, municipality, or county the right to appeal the
31 trial court's decision to the district court. The fact that a
32 defendant is issued a civil citation for a county or municipal
33 infraction does not provide the defendant an action for
34 malicious prosecution.

35 Section 331.307, subsection 12, was inadvertently omitted

1 from the 1987 Code Supplement and the 1989 Code, so this bill
2 directs that it be published in the 1989 Code Supplement along
3 with the amendment enacted in this Act.

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 372

S-3454

1 Amend Senate File 372 as follows:
2 1. Page 1, by striking lines 9 and 10 and
3 inserting the following: "requested, or by
4 publication in the manner as provided in rule of civil
5 procedure 60 and subject to the conditions of rule of
6 civil procedure 60.1. A copy of the citation shall be
7 retained by the".
8 2. Page 2, by striking lines 12 through 18 and
9 inserting the following: "district associate judge to
10 the district court. The procedure on appeal shall be
11 the same as for a small claim pursuant to section
12 631.13. A factual determination made by the trial
13 court, supported by substantial evidence as shown in
14 the record, is binding for purposes of appeal relating
15 to the violation at issue, but shall not be admissible
16 or binding as to any future violation for the same or
17 similar ordinance provision".
18 3. Page 2, by striking lines 34 and 35 and
19 inserting the following: "requested, or by
20 publication in the manner as provided in rule of civil
21 procedure 60 and subject to the conditions of rule of
22 civil procedure 60.1. A copy of the citation shall be
23 retained by the".
24 4. Page 4, by striking lines 6 through 13 and
25 inserting the following: "district associate judge to
26 the district court. The procedure on appeal shall be
27 the same as for a small claim pursuant to section
28 631.13. A factual determination made by the trial
29 court, supported by substantial evidence as shown in
30 the record, is binding for purposes of appeal relating
31 to the violation at issue, but shall not be admissible
32 or binding as to any future violation for the same or
33 similar ordinance provision by the same defendant."

By ALVIN MILLER
DONALD V. DOYLE

S-3454 FILED MARCH 28, 1989

Adopted 4-13-89 (p.148)

SENATE FILE 372

S-3355

1 Amend Senate File 372 as follows:
2 1. Page 2, by striking lines 17 through 19, and
3 inserting the following: "issue, but is not
4 admissible or binding as to any future violation of
5 the same or similar ordinance provision by the same
6 defendant.".
7 2. Page 4, by striking lines 11 through 13, and
8 inserting the following: "violation at issue, but is
9 not admissible or binding as to any future violation
10 of the same or similar ordinance provision by the same
11 defendant."

By ALVIN V. MILLER
DONALD V. DOYLE

S-3355 FILED MARCH 21, 1989

Sub of Ordinance 4-13-89 (p.149)

SENATE FILE 372

S-3552

1 Amend Senate File 372 as follows:

2 1. Page 2, by inserting after line 7 the
3 following:

4 "The magistrate or district associate judge shall
5 have jurisdiction to assess or enter judgment for
6 costs of abatement or correction in an amount not to
7 exceed the jurisdictional amount for a money judgment
8 in a civil action pursuant to section 631.1,
9 subsection 1, for magistrates and section 602.6306,
10 subsection 2, for district associate judges. If the
11 county seeks abatement or correction costs in excess
12 of those amounts, the case shall be referred to the
13 district court for hearing and entry of an appropriate
14 order. The procedure for hearing in the district
15 court shall be the same procedure as that for a small
16 claims appeal pursuant to section 631.13."

17 2. Page 4, by inserting after line 1 the
18 following:

19 "The magistrate or district associate judge shall
20 have jurisdiction to assess or enter judgment for
21 costs of abatement or correction in an amount not to
22 exceed the jurisdictional amount for a money judgment
23 in a civil action pursuant to section 631.1,
24 subsection 1, for magistrates and section 602.6306,
25 subsection 2, for district associate judges. If the
26 city seeks abatement or correction costs in excess of
27 those amounts, the case shall be referred to the
28 district court for hearing and entry of an appropriate
29 order. The procedure for hearing in the district
30 court shall be the same procedure as that for a small
31 claims appeal pursuant to section 631.13."

By ALVIN MILLER

DONALD V. DOYLE

S-3552 FILED APRIL 4, 1989

Adopted 4-13-89 (p1418)

SENATE FILE 372

S-3690

1 Amend Senate File 372 as follows:

2 1. Page 2, line 8, by striking the words "A The"
3 and inserting the following: "A".

4 2. Title, by striking line 1 and inserting the
5 following: "An Act relating to the handling and use
6 of county and municipal infractions, making a Code
7 correction in regard to such infractions, and
8 providing for penalties and remedies for such
9 infractions."

By ALVIN V. MILLER

S-3690 FILED APRIL 13, 1989

ADOPTED 4-13-89 (p1419)