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SENATE FILE  
BY NYSTROM

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Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act providing counties with authority to establish and enforce  
2 requirements relating to the disposal of solid waste, and  
3 creating penalties.

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

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1 Section 1. Section 331.302, subsection 2, Code 1991, is  
2 amended to read as follows:

3 2. A county shall not provide a criminal penalty in excess  
4 of a one hundred dollar fine or in excess of thirty days  
5 imprisonment for the violation of an ordinance. The criminal  
6 penalty surcharge required by section 911.2 shall be added to  
7 a county fine and is not a part of the county's penalty.

8 Sec. 2. Section 331.302, subsection 15, Code 1991, is  
9 amended to read as follows:

10 15. A county shall not provide a civil penalty ~~in excess~~  
11 ~~of one hundred dollars~~ for the violation of an ordinance which  
12 is classified as a county infraction ~~or if the infraction is a~~  
13 ~~repeat offense, a civil penalty not to exceed two hundred~~  
14 ~~dollars for each repeat offense~~ in excess of the limits  
15 established in section 331.307. A county infraction is not  
16 punishable by imprisonment.

17 Sec. 3. Section 331.307, subsection 1, Code 1991, is  
18 amended to read as follows:

19 1. A county infraction is a civil offense. Except as  
20 provided in this subsection, a county infraction is punishable  
21 by a civil penalty of not more than one hundred dollars for  
22 each violation or if the infraction is a repeat offense a  
23 civil penalty not to exceed two hundred dollars for each  
24 repeat offense. A county may classify a county infraction as  
25 an environmental violation, if the infraction is one of the  
26 following:

27 a. A violation of section 455B.307.

28 b. A violation of a rule adopted pursuant to section  
29 455B.307 by the department of natural resources.

30 c. A county ordinance relating to the dumping of solid  
31 waste established in consultation with the department of  
32 natural resources.

33 A county infraction which is classified as an environmental  
34 violation is punishable by a civil penalty of not more than  
35 one thousand dollars for each occurrence. Each day a

1 violation continues is deemed a separate offense.

2 Sec. 4. Section 331.307, subsection 5, paragraph a, Code  
3 1991, is amended to read as follows:

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

11 Sec. 5. Section 331.307, subsection 9, paragraph e,  
12 unnumbered paragraph 3, Code 1991, is amended to read as  
13 follows:

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

27 Sec. 6. Section 331.307, Code 1991, is amended by adding  
28 the following new subsection:

29 NEW SUBSECTION. 13. An action brought pursuant to this  
30 section for a county infraction which is an environmental  
31 violation does not preclude, and is in addition to, any other  
32 enforcement action which may be brought pursuant to chapter  
33 455B, 455D, or 455E. However, an action shall not be brought  
34 under this section for an infraction if a city has also  
35 brought an action based on the same facts as an environmental

1 violation under section 364.22.

2 Sec. 7. Section 364.3, subsection 2, Code 1991, is amended  
3 to read as follows:

4 2. A city shall not provide a criminal penalty in excess  
5 of a one hundred dollar fine or in excess of thirty days  
6 imprisonment for the violation of an ordinance. An amount  
7 equal to ten percent of all fines collected by cities shall be  
8 deposited in the court revenue distribution account  
9 established in section 602.8108. However, one hundred percent  
10 of all fines collected by a city pursuant to section 321.236,  
11 subsection 1, shall be retained by the city. The criminal  
12 penalty surcharge required by section 911.2 shall be added to  
13 a city fine and is not a part of the city's penalty.

14 Sec. 8. Section 364.3, subsection 6, Code 1991, is amended  
15 to read as follows:

16 6. A city shall not provide a civil penalty ~~in excess of~~  
17 ~~one hundred dollars~~ for the violation of an ordinance which is  
18 classified as a municipal infraction ~~or if the infraction is a~~  
19 ~~repeat offense, a civil penalty not to exceed two hundred~~  
20 ~~dollars for each repeat offense~~ in excess of the limits  
21 established in section 364.22. A municipal infraction is not  
22 punishable by imprisonment.

23 Sec. 9. Section 364.22, subsection 1, unnumbered paragraph  
24 1, Code 1991, is amended to read as follows:

25 A municipal infraction is a civil offense. Except as  
26 provided in this subsection, a municipal infraction is  
27 punishable by a civil penalty of not more than one hundred  
28 dollars for each violation or if the infraction is a repeat  
29 offense, a civil penalty not to exceed two hundred dollars for  
30 each repeat offense. ~~However, notwithstanding section 364.37~~  
31 a A municipal infraction arising from noncompliance with a  
32 pretreatment standard or requirement, referred to in 40 C.F.R.  
33 § 403.8, by an industrial user may be punishable by a civil  
34 penalty of not more than one thousand dollars for each day a  
35 violation exists or continues.

1     Sec. 10. Section 364.22, subsection 5, paragraph a, Code  
2 1991, is amended to read as follows:

3     a. The matter shall be tried before a magistrate or a  
4 ~~district associate judge~~ or a district judge in district  
5 ~~court~~ if the total amount of civil penalties does not exceed  
6 two thousand dollars in the same manner as a small claim. The  
7 matter shall only be tried before a district associate judge  
8 ~~in or a district court judge in district court~~ if the total  
9 amount of civil penalties assessed exceeds two thousand  
10 dollars.

11     Sec. 11. Section 364.22, subsection 10, Code 1991, is  
12 amended to read as follows:

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

23     Sec. 12. Section 364.22, subsection 13, Code 1991, is  
24 amended to read as follows:

25     13. An action brought pursuant to this section for a  
26 municipal infraction which is an environmental violation does  
27 not preclude, and is in addition to, any other enforcement  
28 action which may be brought pursuant to chapter 455B, 455D, or  
29 455E. However, an action shall not be brought under this  
30 section for an infraction if a court has brought an action  
31 based on the same facts as an environmental violation under  
32 section 331.307.

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EXPLANATION

34     In 1990 the general assembly broadened the authority of  
35 cities to establish civil penalties imposed upon persons

1 violating environmental protection requirements. This bill  
2 provides counties with authority to assess a civil penalty of  
3 up to \$1,000 for each offense involving the disposing of solid  
4 waste in violation of section 455B.307 or a rule adopted by  
5 the department of natural resources under that section.  
6 Section 455B.307 prohibits a person from dumping solid waste  
7 other than at an area approved by the department. The bill  
8 provides that an environmental violation may also be based on  
9 an ordinance relating to solid waste disposal established in  
10 consultation with the department.

11 The bill provides for the enforcement of penalties by the  
12 district court. The bill provides that an action brought by a  
13 county does not preclude additional actions by the state.  
14 However, a county or city cannot bring an action for an  
15 infraction if an action under the same facts is brought as an  
16 environmental violation by the other.

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