

publication in The Cascade Pioneer-Advertiser, a newspaper published in Cascade, Iowa, and in the Advocate News, a newspaper published in Wilton, Iowa.

Approved May 21, 1986

Pursuant to the authority vested in the undersigned Secretary of State of the State of Iowa, under the provisions of Section 3.9, Code of Iowa, 1985, there being no newspaper by the name of the Advocate News, published in Wilton, Iowa, I hereby designate that House File 2349 be published in the Wilton-Durant Advocate News, a newspaper published in Wilton, Iowa.

MARY JANE ODELL, *Secretary of State*

I hereby certify that the foregoing Act, House File 2349, was published in the Wilton-Durant Advocate News, Wilton, Iowa, on May 29, 1986, and in The Cascade Pioneer-Advertiser, Cascade, Iowa, on June 12, 1986.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1202

CIVIL PENALTIES FOR VIOLATIONS OF LOCAL ORDINANCES

H.F. 2393

AN ACT authorizing cities and counties to establish civil penalties for violations of ordinances.

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

Section 1. Section 364.3, Code Supplement 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A city shall not provide a civil penalty in excess of one hundred dollars for the violation of an ordinance which is classified as a municipal infraction or if the infraction is a repeat offense, a civil penalty not to exceed two hundred dollars for each repeat offense. A municipal infraction is not punishable by imprisonment.

Sec. 2. **NEW SECTION. 364.22 MUNICIPAL INFRACTIONS.**

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.

2. A city by ordinance may provide that a violation of an ordinance is a municipal infraction.

3. A city shall not provide that a violation of an ordinance is a municipal infraction if the violation is a felony or misdemeanor by state law.

4. An officer authorized by a city to enforce a city code or regulation may issue a civil citation to a person who commits a municipal infraction. The citation may be served by personal service or by certified mail return receipt requested. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the clerk of the district court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

- a. The name and address of the violator.
- b. The name or description of the infraction attested to by the officer issuing the citation.
- c. The location and time of the infraction.
- d. The amount of civil penalty to be assessed or the alternate relief sought, or both.
- e. The manner, location, and time in which the penalty may be paid.
- f. The time and place of court appearance.

- g. The penalty for failure to appear in court.
5. In proceedings before the court for a municipal infraction:
 - a. The city has the burden of proof that the municipal infraction occurred and that the violator committed the infraction. The proof shall be by clear, satisfactory, and convincing evidence.
 - b. The court shall ensure that the violator has received a copy of the charges and that the violator understands the charges. The violator may question all witnesses who appear for the city and produce evidence or witnesses on the violator's behalf.
 - c. The violator may be represented by counsel of the violator's own selection and at the violator's own expense.
 - d. The violator may enter a plea admitting or denying the infraction.
 - e. The verdict of the court for a municipal infraction shall be "guilty" of the municipal infraction or "not guilty" of the municipal infraction.
6. All penalties or forfeitures collected by the court for municipal infractions shall be remitted to the city in the same manner as fines and forfeitures are remitted for criminal violations under section 602.8106. If the person named in the citation is served as provided in this section and fails without good cause to appear in response to the civil citation, judgment shall be entered against the person cited.
7. A person found guilty of a municipal infraction is liable for the court costs and fees. If a person is found not guilty of a municipal infraction or the action is dismissed, the city is liable for the court costs and court fees. Where the action is disposed of without payment, or provision for assessment, of court costs, the clerk shall at once enter judgment for costs against the city.
8. Seeking a civil penalty as authorized in this section, does not preclude a city from seeking alternative relief from the court in the same action.
9. When a violator has been found guilty of a municipal infraction, the court may impose a civil penalty or may grant appropriate relief to abate or halt the violation, or both, and the court may direct that payment of the civil penalty be suspended or deferred under conditions established by the court. If a violator willfully fails to pay the civil penalty or violates the terms of any other order imposed by the court, the failure is contempt.
10. A violator who has been found guilty of a municipal infraction may file a motion for a new trial or a motion for a reversal of a judgment as provided by law or rule of civil procedure.
11. This section does not preclude a peace officer of a city from issuing a criminal citation for a violation of a city code or regulation if criminal penalties are also provided for the violation. Each day that a violation occurs or is permitted to exist by the violator, constitutes a separate offense.
12. The issuance of a civil citation for a municipal infraction or the ensuing court proceedings do not provide an action for false arrest, false imprisonment, or prosecution.

Sec. 3. Section 331.302, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 15. A county shall not provide a civil penalty in excess of one hundred dollars for the violation of an ordinance which is classified as a county infraction or if the infraction is a repeat offense, a civil penalty not to exceed two hundred dollars for each repeat offense. A county infraction is not punishable by imprisonment.

Sec. 4. NEW SECTION. 331.307 COUNTY INFRACTIONS.

1. A county 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.
2. A county by ordinance may provide that a violation of an ordinance is a county infraction.
3. A county shall not provide that a violation of an ordinance is a county infraction if the violation is a felony or misdemeanor by state law.
4. An officer authorized by a county to enforce a county code or regulation may issue a civil

citation to a person who commits a county infraction. The citation may be served by personal service or by certified mail return receipt requested. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the clerk of the district court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

- a. The name and address of the violator.
 - b. The name or description of the infraction attested to by the officer issuing the citation.
 - c. The location and time of the infraction.
 - d. The amount of civil penalty to be assessed or the alternate relief sought, or both.
 - e. The manner, location, and time in which the penalty may be paid.
 - f. The time and place of court appearance.
 - g. The penalty for failure to appear in court.
5. In proceedings before the court for a county infraction:
- a. The county has the burden of proof that the county infraction occurred and that the violator committed the infraction. The proof shall be by clear, satisfactory, and convincing evidence.
 - b. The court shall ensure that the violator has received a copy of the charges and that the violator understands the charges. The violator may question all witnesses who appear for the county and produce evidence or witnesses on the violator's behalf.
 - c. The violator may be represented by counsel of the violator's own selection and at the violator's own expense.
 - d. The violator may enter a plea admitting or denying the infraction.
 - e. The verdict of the court for a county infraction shall be "guilty" of the county infraction or "not guilty" of the county infraction.
6. Notwithstanding section 602.8106, subsection 3, penalties or forfeitures collected by the court for county infractions shall be remitted to the county in the same manner as fines and forfeitures are remitted to cities for criminal violations under section 602.8106. If the person named in the citation is served as provided in this section and fails without good cause to appear in response to the civil citation, judgment shall be entered against the person cited.
7. A person found guilty of a county infraction is liable for the court costs and fees. If a person is found not guilty of a county infraction or the action is dismissed, the county is liable for the court costs and court fees. Where the action is disposed of without payment, or provision for assessment, of court costs, the clerk shall at once enter judgment for costs against the county.
8. Seeking a civil penalty as authorized in this section, does not preclude a county from seeking alternative relief from the court in the same action.
9. When a violator has been found guilty of a county infraction, the court may impose a civil penalty or may grant appropriate relief to abate or halt the violation, or both, and the court may direct that payment of the civil penalty be suspended or deferred under conditions established by the court. If a violator willfully fails to pay the civil penalty or violates the terms of any other order imposed by the court, the failure is contempt.
10. A violator who has been found guilty of a county infraction may file a motion for a new trial or a motion for a reversal of a judgment as provided by law or rule of civil procedure.
11. This section does not preclude a peace officer of a county from issuing a criminal citation for a violation of a county code or regulation if criminal penalties are also provided for the violation. Each day that a violation occurs or is permitted by the violator to exist, constitutes a separate offense.
12. The issuance of a civil citation for a county infraction or the ensuing court proceedings do not provide an action for false arrest, false imprisonment, or prosecution.