

AMENDED IN ASSEMBLY APRIL 24, 2017

AMENDED IN ASSEMBLY MARCH 14, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 556

Introduced by Assembly Member Limón

February 14, 2017

An act to amend Sections 25132 and 53069.4 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 556, as amended, Limón. County ordinances: violations: fines.

The California Constitution authorizes a county to make and enforce within its limits all police, sanitary, and other ordinances and regulations not in conflict with general laws, and existing law establishes the procedure by which counties may enact ordinances. Under existing law, violation of a county ordinance is generally a misdemeanor, unless by ordinance it is made an infraction. Existing law establishes fines for violations of an ordinance determined to be an infraction and limits the amount of fine to \$100 for a first violation, \$200 for a 2nd violation within 5 years, and \$500 for each additional violation within 5 years or, in the case of violations of a local building and safety code, \$500 for a 2nd violation within 5 years and \$1,000 for each additional violation within 5 years.

This bill would increase the maximum amount of fine for ~~one-time violations~~, *violations of event permit requirements*, as defined, ~~of permit conditions or use requirements~~ to \$1,000 for a first ~~one-time~~ violation, \$2,500 for a 2nd occurrence of the same ~~one-time~~ violation by the same owner or operator within 5 years, and \$5,000 for each additional

occurrence of the same ~~one-time~~ violation by the same owner or operator within 5 years.

Existing law authorizes the legislative body of a local agency, as defined, 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, as specified. Where the violation would otherwise be an infraction, existing law requires that the administrative fine or penalty not exceed the maximum fine or penalty amounts set forth in specified law, including the above-described provisions regarding the limitation on the maximum amount of fine for the violation of a county ordinance determined to be an infraction.

This bill would instead prohibit the administrative fine or penalty for a violation that would otherwise be an infraction from exceeding the maximum fine or penalty amount established with respect to county ordinances for infractions generally, for violations of local building and safety codes, or for ~~one-time violations~~: *violations of event permit requirements*.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25132 of the Government Code is
2 amended to read:
3 25132. (a) Violation of a county ordinance is a misdemeanor
4 unless by ordinance it is made an infraction. The violation of a
5 county ordinance may be prosecuted by county authorities in the
6 name of the people of the State of California, or redressed by civil
7 action.
8 (b) Every violation ~~determined to be~~ *that is* an infraction is
9 punishable by the following:
10 (1) A fine not exceeding one hundred dollars (\$100) for a first
11 violation.
12 (2) A fine not exceeding two hundred dollars (\$200) for a second
13 violation of the same ordinance within ~~one year~~: *year of the first*
14 *violation*.
15 (3) A fine not exceeding five hundred dollars (\$500) for each
16 additional violation of the same ordinance within ~~one year~~: *year*
17 *of the first violation*.

1 (c) Notwithstanding any other provision of law, a violation of
2 local building and safety codes ~~determined to be~~ *that is* an
3 infraction is punishable by the following:

4 (1) A fine not exceeding one hundred dollars (\$100) for a first
5 violation.

6 (2) A fine not exceeding five hundred dollars (\$500) for a second
7 violation of the same ordinance within one ~~year~~. *year of the first*
8 *violation*.

9 (3) A fine not exceeding one thousand dollars (\$1,000) for each
10 additional violation of the same ordinance within one year of the
11 first violation.

12 (d) (1) Notwithstanding any other law, including subdivisions
13 (b) and (c), a ~~one-time~~ violation of ~~a~~ *an event permit condition or*
14 ~~use requirement, including, but not limited to, unpermitted special~~
15 ~~events with more than 80 attendees onsite,~~ *requirement that is an*
16 *infraction* is punishable by the following:

17 (A) A fine not exceeding one thousand dollars (\$1,000) for the
18 ~~first one-time violation~~. *violation of an event permit requirement*.

19 (B) A fine not exceeding two thousand five hundred dollars
20 (\$2,500) for a second occurrence of the same ~~one-time~~ violation
21 *of an event permit requirement* by the same owner or operator
22 within five ~~years~~. *years of the first violation*.

23 (C) A fine not exceeding five thousand dollars (\$5,000) for each
24 additional occurrence of the same ~~one-time~~ violation *of an event*
25 *permit requirement* by the same owner or operator within five
26 years of the first violation.

27 (2) For purposes of this subdivision, ~~“one-time violation”~~
28 *“violation of an event permit requirement”* means ~~a violation that~~
29 ~~cannot be corrected or cured and is not an ongoing or continuing~~
30 ~~violation~~. *either of the following:*

31 (A) *Failure to obtain a permit required for a professionally*
32 *organized special event on private property that is commercial in*
33 *nature, or from which the owner or operator derives a commercial*
34 *benefit.*

35 (B) *Failure to obtain the permit for an event resulted in a*
36 *significant threat to the public health and safety.*

37 SEC. 2. Section 53069.4 of the Government Code is amended
38 to read:

39 53069.4. (a) (1) The legislative body of a local agency, as the
40 term “local agency” is defined in Section 54951, may by ordinance

1 make any violation of any ordinance enacted by the local agency
2 subject to an administrative fine or penalty. The local agency shall
3 set forth by ordinance the administrative procedures that shall
4 govern the imposition, enforcement, collection, and administrative
5 review by the local agency of those administrative fines or
6 penalties. Where the violation would otherwise be an infraction,
7 the administrative fine or penalty shall not exceed the maximum
8 fine or penalty amounts for infractions set forth in Section 25132
9 and subdivision (b) of Section 36900.

10 (2) The administrative procedures set forth by ordinance adopted
11 by the local agency pursuant to this subdivision shall provide for
12 a reasonable period of time, as specified in the ordinance, for a
13 person responsible for a continuing violation to correct or otherwise
14 remedy the violation prior to the imposition of administrative fines
15 or penalties, when the violation pertains to building, plumbing,
16 electrical, or other similar structural or zoning issues, that do not
17 create an immediate danger to health or safety.

18 (b) (1) Notwithstanding the provisions of Section 1094.5 or
19 1094.6 of the Code of Civil Procedure, within 20 days after service
20 of the final administrative order or decision of the local agency is
21 made pursuant to an ordinance enacted in accordance with this
22 section regarding the imposition, enforcement or collection of the
23 administrative fines or penalties, a person contesting that final
24 administrative order or decision may seek review by filing an
25 appeal to be heard by the superior court, where the same shall be
26 heard de novo, except that the contents of the local agency's file
27 in the case shall be received in evidence. A proceeding under this
28 subdivision is a limited civil case. A copy of the document or
29 instrument of the local agency providing notice of the violation
30 and imposition of the administrative fine or penalty shall be
31 admitted into evidence as prima facie evidence of the facts stated
32 therein. A copy of the notice of appeal shall be served in person
33 or by first-class mail upon the local agency by the contestant.

34 (2) The fee for filing the notice of appeal shall be as specified
35 in Section 70615. The court shall request that the local agency's
36 file on the case be forwarded to the court, to be received within
37 15 days of the request. The court shall retain the fee specified in
38 Section 70615 regardless of the outcome of the appeal. If the court
39 finds in favor of the contestant, the amount of the fee shall be
40 reimbursed to the contestant by the local agency. Any deposit of

1 the fine or penalty shall be refunded by the local agency in
2 accordance with the judgment of the court.

3 (3) The conduct of the appeal under this section is a subordinate
4 judicial duty that may be performed by traffic trial commissioners
5 and other subordinate judicial officials at the direction of the
6 presiding judge of the court.

7 (c) If no notice of appeal of the local agency's final
8 administrative order or decision is filed within the period set forth
9 in this section, the order or decision shall be deemed confirmed.

10 (d) If the fine or penalty has not been deposited and the decision
11 of the court is against the contestant, the local agency may proceed
12 to collect the penalty pursuant to the procedures set forth in its
13 ordinance.