

40:49-5

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40: 49-5

(Municipal ordinances--repeat violations--increases penalties)

LAWS OF: 1989

CHAPTER: 114

Bill No: A2118

Sponsor(s): Mattison

Date Introduced: Pre-filed

Committee: Assembly: Municipal Government

Senate: County & Municipal Government

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: July 14, 1988

Senate: May 8, 1989

Date of Approval: June 29, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

P.L.1989, CHAPTER 114, approved June 29, 1989
1988 Assembly No. 2118 (First Reprint)

1 AN ACT concerning ¹[penalties] fin¹ for the violation of
municipal ordinances, and amending R.S.40:49-5 and P.L.1950,
3 c.210.

5 BE IT ENACTED by the Senate and General Assembly of the
State of New Jersey:

7 1. R.S.40:49-5 is amended to read as follows:

40:49-5. The governing body may prescribe penalties for the
9 violation of ordinances it may have authority to pass, by one or
more of the following: imprisonment in the county jail¹ or in any
11 place provided by the municipality for the detention of
prisoners, for any term not exceeding 90 days; or by a fine not
13 exceeding \$1,000.00; or by a period of community service not
exceeding 90 days.

15 The governing body may prescribe that for the violation of
any particular ordinance at least a minimum penalty shall be
17 imposed which shall consist of a fine which may be fixed at an
amount not exceeding \$100.00. The court before which any
19 person is convicted of violating any ordinance of a municipality
shall have power to impose any fine, term of imprisonment, or
21 period of community service not less than the minimum and not
exceeding the maximum fixed in such ordinance.

23 Any person who is convicted of violating an ordinance within
one year of the date of a previous violation of the same
25 ordinance ¹and who was fined for the previous violation¹, shall
be sentenced by a court to an additional ¹[penalty] fine¹ as a
27 repeat offender. The additional ¹[penalty] fine¹ imposed by the
court upon a person for a repeated offense shall not be less than
29 the minimum or exceed the maximum ¹fine¹ fixed for a
violation of the ordinance, but shall be calculated separately
31 from the ¹[penalty] fine¹ imposed for the violation of the
ordinance.

33 ¹Any municipality which chooses not to impose an additional

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
¹ Senate SCM committee amendments adopted December 8, 1988.

1 fine upon a person for a repeated violation of any municipal
2 ordinance may waive the additional fine by ordinance or
3 resolution.¹

4 Any person convicted of the violation of any ordinance may,
5 in the discretion of the court by which he was convicted, and in
6 default of the payment of any fine imposed therefor, be
7 imprisoned in the county jail or place of detention provided by
8 the municipality, for any term not exceeding 90 days¹, or be
9 required to perform community service for a period not
10 exceeding 90 days¹.

11 (cf: P.L.1987, c.411, s.1)

12 2. Section 2-4 of P.L.1950, c.210 (C.40:69A-29) is amended
13 to read as follows:

14 2-4. Each municipality governed by an optional form of
15 government pursuant to this act shall, subject to the provisions
16 of this act or other general laws, have full power to:

17 (a) Organize and regulate its internal affairs, and to establish,
18 alter, and abolish offices, positions and employments and to
19 define the functions, powers and duties thereof and fix their
20 terms, tenure and compensation;

21 (b) Adopt and enforce local police ordinances of all kinds and
22 impose one or more of the following penalties: fines not
23 exceeding \$1,000.00 or imprisonment for any term not exceeding
24 90 days, or a period of community service not exceeding 90 days
25 for the violation thereof; prescribe that for the violation of
26 particular ordinances at least a minimum penalty shall be
27 imposed which shall consist of a fine which may be fixed at an
28 amount not exceeding \$100.00, to construct, acquire, operate or
29 maintain any and all public improvements, projects or
30 enterprises for any public purpose, subject to referendum
31 requirements otherwise imposed by law, and to exercise all
32 powers of local government in such manner as its governing body
33 may determine;

34 (c) Sue and be sued, to have a corporate seal, to contract and
35 be contracted with, to buy, sell, lease, hold and dispose of real
36 and personal property, to appropriate and expend moneys, and to
37 adopt, amend and repeal such ordinances and resolutions as may
38 be required for the good government thereof;

39 (d) Exercise powers of condemnation, borrowing and taxation

1 in the manner provided by general law.

3 Any person who is convicted of violating an ordinance within
5 one year of the date of a previous violation of the same
7 ordinance ¹and who was fined for the previous violation¹, shall
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19 from the ¹[penalty] fine¹ imposed for the violation of the
21 ordinance.

23 ¹Any municipality which chooses not to impose an additional
25 fine upon a person for a repeated violation of any municipal
ordinance may waive the additional fine by ordinance or
resolution.¹

(cf: P.L.1987, c.411, s.2)

3. This act shall take effect immediately.

MUNICIPALITIES

Courts

Requires court to impose additional fine for repeat violation of
municipal ordinance and allows municipalities to waive
additional fine.

STATEMENT

This bill requires a court to impose an additional penalty upon a person who violates an ordinance within one year of the person's previous violation of the same ordinance. The additional penalty imposed on a repeat offender shall have the same minimum and maximum terms as a violation of the ordinance, but shall be calculated separately. This could result, for example, in a person who commits a second violation of the ordinance being sentenced to two maximum terms. One maximum for the offense of violating the ordinance and the other maximum term for the offense of being a repeat offender.

MUNICIPALITIES

Courts

Requires court to impose additional penalty for repeat violation of municipal ordinance.

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2118

STATE OF NEW JERSEY

DATED: JUNE 23, 1988

The Assembly Municipal Government Committee favorably reports Assembly Bill No. 2118.

This bill requires a court to impose an additional penalty upon a person who violates an ordinance within one year of the person's previous violation of the same ordinance. The additional penalty imposed on a repeat offender shall have the same minimum and maximum terms as a violation of the ordinance, but shall be calculated separately. This could result, for example, in a person who commits a second violation of the ordinance being sentenced to two maximum terms. One maximum for the offense of violating the ordinance and the other maximum term for the offense of being a repeat offender.

This bill was pre-filed for introduction in the 1988 session pending technical review. Technical review has been completed and all technical corrections have been made.

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**SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE**

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 2118

with Senate committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 1, 1988

The Senate County and Municipal Government Committee reports favorably and with committee amendments Assembly Bill No. 2118.

Assembly Bill No. 2118, as amended by the Committee, requires a court to impose an additional fine upon a person who violates an ordinance within one year of the person's previous violation of the same ordinance. The additional fine imposed on a repeat offender shall have the same minimum and maximum amounts as a violation of the ordinance, but shall be calculated separately from the original violation. Accordingly, a person who is a repeat offender could receive two maximum fines upon violating an ordinance for the second time in one year - one fine for violating the ordinance and the second fine for being a repeat offender.

Additionally, the bill authorizes municipalities which choose not to impose the additional fine for a repeated violation to waive the additional fine by ordinance or resolution. Finally, the amendments would make a technical correction to bring section 1 into conformity with most recently enacted law.

As referred to the committee, Assembly Bill 2118 would have allowed for the imposition of additional penalties in the case of repeat offenses, which would also have included prison sentences. The bill gave municipalities no discretion to waive the additional penalty, as originally introduced.

Assembly Bill 2118 Sca is identical to Senate Bill 591, as amended by this committee.

[CORRECTED COPY]

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PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Assemblyman MATTISON

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A 2118

Bills Signed

Page Three

June 29, 1989

A-329, sponsored by Assemblyman Rodney Frelinghuysen, R-Morris. The bill establishes the County Municipal Water Supply Act, based upon a 1984 recommendation of the County and Municipal Government Study Commission.

The bill takes effect immediately.

A-380, sponsored by Assemblywoman Barbara Kalik, D-Burlington. The bill permits deputy mayors to solemnize marriages when authorized to do so by their mayors.

The bill takes effect immediately.

A-790, sponsored by Assemblyman Thomas Shusted, R-Camden. The bill provides for mandatory restitution and a \$500 penalty for certain theft of services offenses.

The bill takes effect immediately.

A-1284, sponsored by Assemblyman Dennis Riley, D-Camden. The bill makes a technical revision of a statutory reference by the Office of Legislative Services.

The bill takes effect immediately.

A-2118, sponsored by Assemblywoman Jackie Mattison, D-Essex. The bill requires a municipal court to impose additional fines for repeat violations of ordinances, and allows municipalities to waive additional fines.

The bill takes effect immediately.

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