

40:49-5

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40:49-5, 40:69A-29

(Municipal ordinances -
violations-fines-increase maximum)

LAWS OF: 1983

CHAPTER: 410

Bill No: S1318

Sponsor(s): Lynch and Codey

Date Introduced: May 10, 1982

Committee: Assembly: Municipal Government

Senate: County and Municipal Government

Amended during passage: YES

Amendments during passage denoted
by asterisks.

Date of Passage: Assembly: December 8, 1983

Senate: September 16, 1983

Date of Approval: January 4, 1984

Following statements are attached if available:

Sponsor statement: YES

(Below)

Committee statement: Assembly YES

Senate YES

Fiscal Note: NO

Veto Message: NO

Message on Signing: NO

Following were printed:

Reports: NO

Hearings: NO

Sponsors' Statement:

This bill would increase the maximum amount of fine which a municipality may prescribe for the violation of a municipal ordinance from \$500.00 to \$2,500.00. It also clarifies the power of a municipality to prescribe the imposition of at least a minimum penalty (not exceeding \$100.00) for the violation of an ordinance.

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1-4-84

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SENATE, No. 1318

STATE OF NEW JERSEY

INTRODUCED MAY 10, 1982

By Senators LYNCH and CODEY

Referred to Committee on County and Municipal Government

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

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

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

2 40:49-5. The governing body may prescribe penalties for the
3 violation of ordinances it may have authority to pass, either by
4 imprisonment in the county jail or in any place provided by the
5 municipality for the detention of prisoners, for any term not ex-
6 ceeding 90 days, or by a fine not exceeding **[\$500.00]** ***[\$2,500.00]***
7 *\$1,000.00*, or both. *The governing body may prescribe that for the*
8 *violation of any particular ordinance at least a minimum penalty*
9 *shall be imposed which shall consist of a fine which may be fixed*
10 *at an amount not exceeding \$100.00.* The court before which any
11 person is convicted of violating any ordinance of a municipality,
12 shall have power to impose any fine or term of imprisonment not
13 less than the minimum and not exceeding the maximum fixed in
14 such ordinance.

15 Any person convicted of the violation of any ordinance may, in
16 the discretion of the court by which he was convicted, and in
17 default of the payment of any fine imposed therefor, be imprisoned
18 in the county jail or place of detention provided by the municipality,
19 for any term not exceeding 90 days.

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

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 printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendments adopted June 28, 1982.

3 2-4. Each municipality governed by an optional form of govern-
4 ment pursuant to this act shall, subject to the provisions of this act
5 or other general laws, have full power to:

6 (a) Organize and regulate its internal affairs, and to establish,
7 alter, and abolish offices, positions and employments and to define
8 the functions, powers and duties thereof and fix their term, tenure
9 and compensation;

10 (b) Adopt and enforce local police ordinances of all kinds and
11 impose penalties of fine not exceeding [five hundred dollars
12 (\$500.00)] *[\$2,500.00]* *\$1,000.00* or imprisonment for any term
13 not exceeding [ninety] 90 days or both for the violation thereof;
14 *prescribe that for the violation of particular ordinances at least a*
15 *minimum penalty shall be imposed which shall consist of a fine*
16 *which may be fixed at an amount not exceeding \$100.00;* to con-
17 struct, acquire, operate or maintain any and all public improve-
18 ments, projects or enterprises for any public purpose, subject to
19 referendum requirements otherwise imposed by law, and to exer-
20 cise all powers of local government in such manner as its governing
20A body may determine;

21 (c) Sue and be sued, to have a corporate seal, to contract and be
22 contracted with, to buy, sell, lease, hold and dispose of real and per-
23 sonal property, to appropriate and expend moneys, and to adopt,
24 amend and repeal such ordinances and resolutions as may be re-
25 quired for the good government thereof;

26 (d) Exercise powers of condemnation, borrowing and taxation
27 in the manner provided by general law.

1 3. This act shall take effect immediately.

SENATE, No. 1318

STATE OF NEW JERSEY

INTRODUCED MAY 10, 1982

By Senators LYNCH and CODEY

Referred to Committee on County and Municipal Government

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

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

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

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3 violation of ordinances it may have authority to pass, either by
4 imprisonment in the county jail or in any place provided by the
5 municipality for the detention of prisoners, for any term not ex-
6 ceeding 90 days, or by a fine not exceeding **[\$500.00]** *\$2,500.00*, or
7 both. *The governing body may prescribe that for the violation of*
8 *any particular ordinance at least a minimum penalty shall be im-*
9 *posed which shall consist of a fine which may be fixed at an amount*
10 *not exceeding \$100.00.* The court before which any person is
11 convicted of violating any ordinance of a municipality, shall have
12 power to impose any fine or term of imprisonment not *less than*
13 *the minimum and not* exceeding the maximum fixed in such
14 ordinance.

15 Any person convicted of the violation of any ordinance may, in
16 the discretion of the court by which he was convicted, and in
17 default of the payment of any fine imposed therefor, be imprisoned
18 in the county jail or place of detention provided by the municipality,
19 for any term not exceeding 90 days.

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

3 2-4. Each municipality governed by an optional form of govern-

**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 printed in italics thus is new matter.

4 ment pursuant to this act shall, subject to the provisions of this act
5 or other general laws, have full power to:

6 (a) Organize and regulate its internal affairs, and to establish,
7 alter, and abolish offices, positions and employments and to define
8 the functions, powers and duties thereof and fix their term, tenure
9 and compensation;

10 (b) Adopt and enforce local police ordinances of all kinds and
11 impose penalties of fine not exceeding **five hundred dollars**
12 **(\$500.00)] \$2,500.00** or imprisonment for any term not exceeding
13 **ninety] 90 days** or both for the violation thereof; *prescribe that*
14 *for the violation of particular ordinances at least a minimum*
15 *penalty shall be imposed which shall consist of a fine which may be*
16 *fixed at an amount not exceeding \$100.00*; to construct, acquire,
17 operate or maintain any and all public improvements, projects or
18 enterprises for any public purpose, subject to referendum require-
19 ments otherwise imposed by law, and to exercise all powers of local
20 government in such manner as its governing body may determine;

21 (c) Sue and be sued, to have a corporate seal, to contract and be
22 contracted with, to buy, sell, lease, hold and dispose of real and per-
23 sonal property, to appropriate and expend moneys, and to adopt,
24 amend and repeal such ordinances and resolutions as may be re-
25 quired for the good government thereof;

26 (d) Exercise powers of condemnation, borrowing and taxation
27 in the manner provided by general law.

1 3. This act shall take effect immediately.

STATEMENT

This bill would increase the maximum amount of fine which a municipality may prescribe for the violation of a municipal ordinance from \$500.00 to \$2,500.00. It also clarifies the power of a municipality to prescribe the imposition of at least a minimum penalty (not exceeding \$100.00) for the violation of an ordinance.

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1318

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STATE OF NEW JERSEY

DATED: OCTOBER 18, 1982

Senate Bill No. 1318 OCR amends R. S. 40:49-5 and section 2-4 of P. L. 1950, c. 210 (C. 40:69A-29) to increase from \$500.00 to \$1,000.00 the maximum fine a municipality may prescribe for a violation of its ordinances.

The bill also amends those sections to clarify the power of a municipality to prescribe a minimum penalty for the violation of any particular ordinance. Under the provisions of the bill, the minimum penalty prescribed by a municipality may not exceed \$100.00.

The current maximum for nonFaulkner Act municipalities (authorized under the provisions of R. S. 40:49-5) was established in 1968. The current maximum for Faulkner Act municipalities (authorized under the provisions of section 2-4 of P. L. 1950, c. 210) has not been changed since the adoption of the "Optional Municipal Charter Law" in 1950.

Presently, neither section specifically authorizes a municipality to establish a minimum penalty for ordinance violations. In at least one case, a court has determined that absent statutory authorization, a municipality may not prescribe minimum penalties. (See *State v. Hatco Chemical Co.*, 96 N. J. Super. 238, 232 A.2nd 838 [1967].)

SENATE COUNTY AND MUNICIPAL
GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 1318

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 28, 1982

Senate Bill No. 1318 would increase the maximum amount of fine which a municipality may prescribe for the violation of a municipal ordinance from \$500.00 to \$1,000.00. It also clarifies the power of a municipality to prescribe the imposition of at least a minimum penalty (not exceeding \$100.00) for the violation of an ordinance.

The maximum amount of fine which a municipality may prescribe was last increased in 1968 from \$200.00 to \$500.00 for non-Faulkner Act municipalities. The \$500.00 maximum for Faulkner Act municipalities has not been increased since the "Optional Municipal Charter Law" was enacted in 1950 (P. L. 1950, c. 210; C. 40:69A-1 et seq.).

In at least one case, a court has ruled that municipalities may *not* prescribe minimum penalties for violation of ordinances, absent express statutory authorization therefor (*State vs. Hatco Chemical Co.*) 96 N. J. Super. 238, 232 A.2nd 838 (1967).

The Senate committee amendments decrease the maximum fine to be levied from \$2,500.00 to \$1,000.00.

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATE

CONTACT: PAUL WOLCOTT

THURSDAY, JANUARY 5, 1984

Governor Thomas H. Kean has signed the following bills:

S-1318, sponsored by State Senator John A. Lynch, D-Middlesex, which increases from \$500 to \$1000 the maximum fine a municipality may impose for violation of an ordinance and to clarify that a municipality may impose a minimum penalty not to exceed \$100.

A-449, sponsored by Assemblyman John A. Girgenti, D-Passaic, which makes a person convicted of motor vehicle theft violations liable to the owner of the vehicle for expenses incurred by damage or recovery of the vehicle.

A-1015, sponsored by Assemblyman Byron M. Baer, D-Bergen, which permits the Director of the Division of Civil Rights to impose fines for violations of the State's civil rights statutes. The bill sets maximum penalties of \$2000 for a first offense and \$5000 for second and subsequent offenses.

A-3015, sponsored by Assemblyman Girgenti, which provides that certain firemen who are injured in the line of duty are eligible for exempt fireman status. In order to qualify under the bill, a fireman must have performed 60 percent of fire duty for a period of five consecutive years at the time the injury is incurred. Current law requires seven years of 60 percent duty performance in order to qualify for exempt status.

A-3404, sponsored by Assemblyman D. Bennett Mazur, D-Bergen, which appropriates \$6.3 million from the Public Purpose Building Construction Fund for the construction of a nursing home for disabled veterans in Paramus.

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