

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

HOUSE BILL NO. 1244
(Representatives K. Koppelman, Magrum)
(Senator Bakke)

AN ACT to amend and reenact section 40-05-06, subsection 3 of section 40-18-01, and section 40-18-14 of the North Dakota Century Code, relating to city fines and penalties and jurisdiction of municipal judges; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-05-06 of the North Dakota Century Code is amended and reenacted as follows:

40-05-06. City fines and penalties limited.

1. Except as provided in subsections 2 and 3, the fine or penalty for the violation of any ordinance, resolution, or regulation of a city may not exceed one thousand five hundred dollars, and the imprisonment may not exceed thirty days for one offense.
2. For every violation of a city ordinance regulating the operation or equipment of motor vehicles or regulating traffic, except those ordinances listed in section 39-06.1-05, a fee may be established, by ordinance, which may not exceed the limits, for equivalent categories of violations, set forth in section 39-06.1-06.
3. For every violation of a city ordinance enforcing the requirements of ~~40-CFR-403~~ title 40, Code of Federal Regulations, section 403 relating to publicly owned treatment works, or prohibiting shoplifting, vandalism, criminal mischief, or malicious mischief, the penalty may not exceed a fine of one thousand five hundred dollars, imprisonment for thirty days, or both such fine and imprisonment.
4. This section does not prohibit the use of the sentencing alternatives, other than a fine or imprisonment, provided by section 12.1-32-02 for the violation of a city ordinance, nor does this section limit the use of deferred or suspended sentences under subsections 3 and 4 of section 12.1-32-02.

SECTION 2. AMENDMENT. Subsection 3 of section 40-18-01 of the North Dakota Century Code is amended and reenacted as follows:

3. Notwithstanding any other provision of law, the municipal court has no jurisdiction to hear, try, and determine an offense which would be a violation of section 39-08-01 or equivalent ordinance, if the ~~person~~ individual charged with the offense has twice previously been convicted of a violation of section 39-08-01 or equivalent ordinance within the ~~five~~ seven years preceding the commission of the offense charged or if the ~~person~~ individual charged with the offense has three times previously been convicted of a violation of section 39-08-01 or equivalent ordinance within the ~~seven~~ fifteen years preceding the commission of the offense charged. If such an offense is charged in the municipal court and the municipal judge has notice of a violation of section 39-08-01 or equivalent ordinance twice within the ~~five~~ seven years, or three times within the ~~seven~~ fifteen years, preceding the commission of the offense charged, the municipal judge shall dismiss the charge, without prejudice, and direct that the charge be filed against the ~~person~~ individual in the district court.

SECTION 3. AMENDMENT. Section 40-18-14 of the North Dakota Century Code is amended and reenacted as follows:

40-18-14. Municipal judge may enforce orders and judgments and punish for contempt.

A municipal judge ~~has the power to~~ may enforce due obedience to the court's orders and judgments. The judge may fine or imprison for contempt committed in the judge's presence while holding court, as well as for contempt of process issued, and of orders made by the judge. When an act or omission constituting a contempt in a municipal court is not committed in the presence of the municipal judge, an affidavit alleging the facts may be filed and a warrant of arrest thereupon may issue on which the person accused may be arrested and brought before the municipal judge immediately. The person must be given a reasonable opportunity to employ counsel and defend against the alleged contempt. After hearing the allegations and proofs, the municipal judge may discharge the person or adjudge the person guilty and may punish by fine or imprisonment or both. The fine in any case may not be more than one thousand five hundred dollars and the imprisonment may not be more than thirty days.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1244.

House Vote: Yeas 92 Nays 0 Absent 2

Senate Vote: Yeas 45 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State