

Introduced by

Representatives K. Koppelman, Magrum

Senator Bakke

1 A BILL for an Act to amend and reenact section 40-05-06, subsection 3 of section 40-18-01, and  
2 section 40-18-14 of the North Dakota Century Code, relating to city fines and penalties and  
3 jurisdiction of municipal judges; and to provide a penalty.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

7 **40-05-06. City fines and penalties limited.**

- 8 1. Except as provided in subsections 2 and 3, the fine or penalty for the violation of any  
9 ordinance, resolution, or regulation of a city may not exceed one thousand five  
10 hundred dollars, and the imprisonment may not exceed thirty days for one offense.
- 11 2. For every violation of a city ordinance regulating the operation or equipment of motor  
12 vehicles or regulating traffic, except those ordinances listed in section 39-06.1-05, a  
13 fee may be established, by ordinance, which may not exceed the limits, for equivalent  
14 categories of violations, set forth in section 39-06.1-06.
- 15 3. For every violation of a city ordinance enforcing the requirements of ~~40-CFR-~~  
16 403title 40, Code of Federal Regulations, section 403 relating to publicly owned  
17 treatment works, or prohibiting shoplifting, vandalism, criminal mischief, or malicious  
18 mischief, the penalty may not exceed a fine of one thousand five hundred dollars,  
19 imprisonment for thirty days, or both such fine and imprisonment.
- 20 4. This section does not prohibit the use of the sentencing alternatives, other than a fine  
21 or imprisonment, provided by section 12.1-32-02 for the violation of a city ordinance,  
22 nor does this section limit the use of deferred or suspended sentences under  
23 subsections 3 and 4 of section 12.1-32-02.

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

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

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

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

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