SENATE BILL

58TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2027

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO MUNICIPAL PENALTIES; REQUIRING MUNICIPALITIES TO RETAIN THE TOTAL AMOUNT OF ASSESSED PENALTIES AND FINES FOR NUISANCE VIOLATIONS FOR FAILING TO OBEY A TRAFFIC SIGN OR SIGNAL OR SPEEDING OFFENSES; REMOVING CERTAIN RESTRICTIONS ON FINES AND FEES BY MUNICIPALITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 3-18-17 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-17-14, as amended) is amended to read:

"3-18-17. NUISANCES AND OFFENSES--REGULATION OR PROHIBITION.--

A. A municipality, including a home rule municipality that has adopted a charter pursuant to Article 10, Section 6 of the constitution of New Mexico, may by ordinance:

[~~A.~~] (1) define a nuisance, abate a nuisance

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and impose penalties upon a person who creates or allows a nuisance to exist; provided that:

[~~(1)~~] (a) the total amount of assessed penalties and fines imposed by an ordinance for failure to obey a traffic sign or signal, including a red light offense or violation, or for a speeding offense or violation shall not exceed one hundred dollars ($100); provided that the total for unlawful parking in a space or for blocking an access intended for persons with significant mobility limitation shall not be less than or exceed the fines provided in Section 66-7-352.5 NMSA 1978;

[~~(2) no fees or costs shall be imposed pursuant to this subsection;~~

~~(3) in a municipality with a population of two hundred thousand or greater as of the last federal decennial census, the penalties, fines and procedures imposed for failure to obey a traffic sign or signal, including a red light offense or violation, or for a speeding offense or violation shall be subject to the following:~~

~~(a) each month, or other period set by contract, the municipality shall retain from the gross total amount of penalties and fines assessed and collected that month or period an amount subject to audit that is equal to the sum of the setup, maintenance, support and processing services fees charged to the municipality for that month or period pursuant~~

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~~to contractual terms by a vendor providing systems and services that assist the municipality in imposing penalties or fines as provided in Paragraph (1) of this subsection;~~

~~(b) less the retention authorized in Subparagraph (a) of this paragraph: 1) one-half of the net total amount assessed and collected by the municipality pursuant to this section shall be remitted to the state treasurer and distributed to the general fund; and 2) one-half shall be retained by the municipality for municipal traffic safety programs and to offset the municipality's reasonable costs directly related to administering a program as provided in Paragraph (1) of this subsection;~~

~~(c) the municipality shall cause an audit of the program and contract described in Subparagraph (a) of this paragraph to be conducted by the state auditor or an independent auditor selected by the state auditor;~~

~~(d) if in the audit conducted pursuant to Subparagraph (c) of this paragraph it is determined that any amount retained by the municipality pursuant to this paragraph is in excess of the amount the municipality is authorized to retain, the municipality shall remit, when the audit is finalized, the amount in excess to the state treasurer to be distributed and transferred as provided in Item 1) of Subparagraph (b) of this paragraph; and~~

~~(e) a respondent may select a hearing to~~

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~~contest a nuisance ordinance offense or violation that shall either be conducted by a hearing officer appointed by the presiding judge of the civil division of the district court with jurisdiction over the municipality and in accordance with the rules of evidence and rules of civil procedure for the district courts or that shall be conducted by a mail-in form alternative. The notice of violation shall clearly explain the process for requesting a hearing, the hearing options, the deadline to request a hearing and where the request shall be submitted. The burden of proof for violations is on the municipality and is a preponderance of the evidence. A determination by the hearing officer shall not impose a total amount of penalties or fines in excess of that provided in the nuisance ordinance; and~~

~~(4) in a municipality other than a municipality with a population of two hundred thousand or greater as of the last federal decennial census, the penalties, fines and procedure imposed for failure to obey a traffic sign or signal, including a red light offense or violation, or for a speeding offense or violation shall be subject to the following:~~

~~(a) each month, or other period set by contract, the municipality shall retain from the gross total amount of penalties and fines assessed and collected that month or period an amount subject to audit that is equal to the sum~~

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~~of the setup, maintenance, support and processing services fees charged to the municipality for that month or period pursuant to contractual terms by a vendor providing systems and services that assist the municipality in imposing penalties or fines as provided in Paragraph (1) of this subsection;~~

~~(b) less the retention authorized in Subparagraph (a) of this paragraph: 1) one-half of the net total amount assessed and collected by the municipality pursuant to this section shall be remitted to the state treasurer and distributed to the general fund; and 2) one-half shall be retained by the municipality for municipal traffic safety programs and to offset the municipality's reasonable costs directly related to administering a program as provided in Paragraph (1) of this subsection;~~

~~(c) the municipality shall cause an audit of the program and contract described in Subparagraph (a) of this paragraph to be conducted by the state auditor or an independent auditor selected by the state auditor;~~

~~(d) if in the audit conducted pursuant to Subparagraph (c) of this paragraph it is determined that any amount retained by the municipality pursuant to this paragraph is in excess of the amount the municipality is authorized to retain, the municipality shall remit, when the audit is finalized, the amount in excess to the state treasurer to be distributed and transferred as provided in Item 1) of~~

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~~Subparagraph (b) of this paragraph; and~~]

(b) the total amount of penalties and fines assessed by the municipality shall be retained by the municipality for proactive, system-wide infrastructure improvements designed to anticipate human error and prevent traffic crashes that result in fatal or severe traffic injuries and to offset the municipality's reasonable costs directly related to administering a program as provided in Subparagraph (a) of this paragraph; and

[~~(c)~~] (c) a hearing provided for a contested nuisance ordinance offense or violation shall be conducted by a hearing officer appointed by the presiding judge of the civil division of the district court with jurisdiction over the municipality and in accordance with the rules of evidence and rules of civil procedure for the district courts. If offered by the municipality, a respondent may select a hearing conducted by a mail-in form alternative. The notice of violation shall clearly explain the process for requesting a hearing, the hearing options, the deadline to request a hearing and where the request shall be submitted. The burden of proof for violations is on the municipality and is a preponderance of the evidence. A determination by the hearing officer shall not impose a total amount of penalties or fines in excess of that provided in the nuisance ordinance;

[~~B.~~] (2) regulate or prohibit any amusement or

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practice that tends to annoy persons on a street or public ground; and

[~~C.~~] (3) prohibit and suppress:

[~~(1)~~] (a) gambling and the use of fraudulent devices or practices for the purpose of obtaining money or property;

[~~(2)~~] (b) the sale, possession or exhibition of obscene or immoral publications, prints, pictures or illustrations;

[~~(3)~~] (c) public intoxication;

[~~(4)~~] (d) disorderly conduct; and

[~~(5)~~] (e) riots, noises, disturbances or disorderly assemblies in any public or private place.

B. A municipality that assesses penalties and fines pursuant to this section shall:

(1) prepare and provide an annual report to the legislative finance committee detailing how the penalties and fines collected pursuant to this section were spent; and

(2) adopt a plan, a resolution or an ordinance that prioritizes and identifies locations for physical safety infrastructure improvements and outlines strategies to eliminate all traffic fatalities and severe injuries while increasing safety, health and equitable mobility for all."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2027.

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