

**Assembly Bill No. 514**

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Passed the Assembly September 2, 2015

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*Chief Clerk of the Assembly*

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Passed the Senate August 31, 2015

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2015, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 25132 and 53069.4 of the Government Code, relating to local government.

## LEGISLATIVE COUNSEL'S DIGEST

AB 514, Williams. Ordinances: violations: administrative fines.

Existing law authorizes the legislative body of a city, county, or city and county to collect any fee, cost, or charge incurred in specified activities, including the abatement of public nuisances, enforcement of specified zoning ordinances, inspections and abatement of violations of the State Housing Law, inspections and abatement of violations of the California Building Standards Code, and inspections and abatement of violations related to local ordinances that implement these laws. Existing law limits the amount of this fee, cost, or charge to the actual cost incurred performing the inspections and enforcement activity, including permit fees, fines, late charges, and interest.

Existing law authorizes the legislative body of a local agency to make, by ordinance, any violation of an ordinance subject to an administrative fine or penalty and limits the maximum fine or penalty amounts for infractions, as specified. For violations of city or county building and safety codes determined to be an infraction, existing law limits the amount of the fine to \$100 for a first violation, \$500 for a 2nd violation of the same ordinance within one year, and \$1,000 for each additional violation of the same ordinance within one year of the first violation.

This bill would authorize a county to establish administrative fines, not to exceed specified limits, for violations of certain county ordinances, including a county building and safety ordinance, brush removal ordinance, grading ordinance, film permit ordinance, or zoning ordinance, determined to be an infraction, subject to certain county findings.

*The people of the State of California do enact as follows:*

SECTION 1. Section 25132 of the Government Code is amended to read:

25132. (a) Violation of a county ordinance is a misdemeanor unless by ordinance it is made an infraction. The violation of a county ordinance may be prosecuted by county authorities in the name of the people of the State of California, or redressed by civil action.

(b) Every violation determined to be an infraction is punishable by the following:

(1) A fine not exceeding one hundred dollars (\$100) for a first violation.

(2) A fine not exceeding two hundred dollars (\$200) for a second violation of the same ordinance within one year.

(3) A fine not exceeding five hundred dollars (\$500) for each additional violation of the same ordinance within one year.

(c) Notwithstanding any other provision of law, a violation of local building and safety codes determined to be an infraction is punishable by an administrative fine described in Section 53069.4 or by one of the following:

(1) A fine not exceeding one hundred dollars (\$100) for a first violation.

(2) A fine not exceeding five hundred dollars (\$500) for a second violation of the same ordinance within one year.

(3) A fine not exceeding one thousand dollars (\$1,000) for each additional violation of the same ordinance within one year of the first violation.

SEC. 2. Section 53069.4 of the Government Code is amended to read:

53069.4. (a) (1) The legislative body of a local agency, as the term “local agency” is defined in Section 54951, may by ordinance make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty. The local agency shall set forth by ordinance the administrative procedures that shall govern the imposition, enforcement, collection, and administrative review by the local agency of those administrative fines or penalties. Where the violation would otherwise be an infraction, the administrative fine or penalty shall not exceed the maximum fine or penalty amounts for infractions set forth in subdivision (b) of Section 25132 and subdivision (b) of Section 36900.

(2) Notwithstanding paragraph (1), the amount of an administrative fine for a one-time violation of a county building and safety ordinance, brush removal ordinance, grading ordinance,

film permit ordinance, or zoning ordinance, that is determined to be an infraction shall be based upon the severity of the threat to public health and safety and shall not exceed the following:

(A) For the first violation, an amount that does not exceed five thousand dollars (\$5,000) or the amount of the permit fee required by the ordinance multiplied by three, whichever is less. In the absence of a permit fee, an amount that does not exceed one thousand dollars (\$1,000).

(B) For the second violation of the same ordinance within five years of the first violation, an amount that does not exceed ten thousand dollars (\$10,000) or the amount of the permit fee required by the ordinance multiplied by five, whichever is less. In the absence of a permit fee, an amount that does not exceed two thousand five hundred dollars (\$2,500).

(C) For the third violation and subsequent violations of the same ordinance within five years of the first violation, an amount that is greater than ten thousand dollars (\$10,000), but does not exceed fifteen thousand dollars (\$15,000). In the absence of a permit fee, an amount that does not exceed five thousand dollars (\$5,000).

(D) Notwithstanding subparagraphs (A) to (C), inclusive, an administrative fine assessed pursuant to this paragraph shall not exceed five hundred dollars (\$500) unless both of the following findings are made in the administrative record prior to the assessment of the administrative fine:

(i) The person who violated the ordinance did so willingly or the violation resulted in an unusual and significant threat to the public health and safety.

(ii) The payment of the administrative fine would not impose an undue financial hardship on the person responsible for the payment.

(E) For purposes of this paragraph, “a one-time violation” means a violation that is not a continuing violation and cannot be corrected or cured, including, but not limited to, a violation of permit conditions or a use violation.

(3) The administrative procedures set forth by ordinance adopted by the local agency pursuant to this subdivision shall provide for a reasonable period of time, as specified in the ordinance, for a person responsible for a continuing violation to correct or otherwise remedy the violation prior to the imposition of administrative fines or penalties, when the violation pertains to building, plumbing,

electrical, or other similar structural or zoning issues, that do not create an immediate danger to health or safety.

(b) (1) Notwithstanding the provisions of Section 1094.5 or 1094.6 of the Code of Civil Procedure, within 20 days after service of the final administrative order or decision of the local agency is made pursuant to an ordinance enacted in accordance with this section regarding the imposition, enforcement or collection of the administrative fines or penalties, a person contesting that final administrative order or decision may seek review by filing an appeal to be heard by the superior court, where the same shall be heard de novo, except that the contents of the local agency's file in the case shall be received in evidence. A proceeding under this subdivision is a limited civil case. A copy of the document or instrument of the local agency providing notice of the violation and imposition of the administrative fine or penalty shall be admitted into evidence as prima facie evidence of the facts stated therein. A copy of the notice of appeal shall be served in person or by first-class mail upon the local agency by the contestant.

(2) The fee for filing the notice of appeal shall be as specified in Section 70615. The court shall request that the local agency's file on the case be forwarded to the court, to be received within 15 days of the request. The court shall retain the fee specified in Section 70615 regardless of the outcome of the appeal. If the court finds in favor of the contestant, the amount of the fee shall be reimbursed to the contestant by the local agency. Any deposit of the fine or penalty shall be refunded by the local agency in accordance with the judgment of the court.

(3) The conduct of the appeal under this section is a subordinate judicial duty that may be performed by traffic trial commissioners and other subordinate judicial officials at the direction of the presiding judge of the court.

(c) If no notice of appeal of the local agency's final administrative order or decision is filed within the period set forth in this section, the order or decision shall be deemed confirmed.

(d) If the fine or penalty has not been deposited and the decision of the court is against the contestant, the local agency may proceed to collect the penalty pursuant to the procedures set forth in its ordinance.





Approved \_\_\_\_\_, 2015

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*Governor*