

SYNOPSIS:

Under existing law, a municipality generally may not impose a fine exceeding five hundred dollars (\$500) for the violation of a municipal ordinance, with specified exceptions for driving under the influence, certain adopted misdemeanor offenses, and Class A misdemeanors.

This bill would authorize a municipality to provide by ordinance for a maximum fine not to exceed eighteen thousand dollars (\$18,000) per violation for the violation of municipal ordinances governing slope development, environmental protection, sedimentation control, or unauthorized land-clearing and land-disturbing activities; would provide that each day a violation continues and each individual act of unauthorized land-clearing constitutes a separate offense; and would provide that cleanup, restitution, and remediation costs are independent of and in addition to any fine.

**A BILL
TO BE ENTITLED
AN ACT**

Relating to municipal ordinances; to amend Section 11-45-9, Code of Alabama 1975, to authorize municipalities to establish increased maximum fines for the violation of local ordinances governing slope development, environmental protection, sedimentation control, and unauthorized land-clearing and land-disturbing activities; to provide that each day of a continuing violation and each individual act constitutes a separate offense; to provide that cleanup and remediation costs are in addition to any fine; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 11-45-9, Code of Alabama 1975, is amended to read as follows:

“§ 11-45-9

(a) Municipal ordinances may provide penalties of fines, imprisonment, hard labor, or one or more of such penalties for violation of ordinances.

(b) Except as otherwise provided in this section, no fine shall exceed five hundred dollars (\$500), and no sentence of imprisonment or hard labor shall exceed six months.

(c) In the enforcement of the penalties prescribed in Section 32-5A-191, the fine shall not exceed five thousand dollars (\$5,000) and the sentence of imprisonment or hard labor shall not exceed one year.

(d) Notwithstanding any other provision of law, the maximum fine for every person either convicted for violating any of the following misdemeanor offenses adopted as a municipal ordinance violation or adjudicated as a youthful offender shall be one thousand dollars (\$1,000):

- (1) Criminal mischief in the second degree, Section 13A-7-22.
- (2) Criminal mischief in the third degree, Section 13A-7-23.
- (3) Theft of property in the third degree, Section 13A-8-5.
- (4) Theft of lost property in the third degree, Section 13A-8-9.
- (5) Theft of services in the third degree, Section 13A-8-10.3.
- (6) Receiving stolen property in the third degree, Section 13A-8-19.

- (7) Tampering with availability of gas, electricity, or water, Section 13A-8-23.
- (8) Possession of traffic sign; notification; destruction, defacement, etc., of traffic sign or traffic control device; defacement of public building or property, Section 13A-8-71 and Section 13A-8-72.
- (9) Offenses against intellectual property, Section 13A-8-102.
- (10) Theft by fraudulent leasing or rental, Section 13A-8-140 through Section 13A-8-144.
- (11) Charitable fraud in the third degree, Section 13A-9-75.
- (12) Illegal possession of food stamps in the third degree, Section 13A-9-91.

(e) The penalty imposed upon a corporation shall consist of the fine only, plus costs of court.

(f) In the enforcement of a Class A misdemeanor, including a domestic violence offense, the fine may not exceed five thousand dollars (\$5,000) and the sentence of imprisonment may not exceed one year.

(g) Notwithstanding the limitations provided in subsection (b), any municipality may provide by ordinance for a maximum fine not to exceed eighteen thousand dollars (\$18,000) per violation for the violation of municipal ordinances governing slope development, environmental protection, sedimentation control, or unauthorized land-clearing and land-disturbing activities.

(h) For the purposes of subsection (g), each day that a violation continues, remains uncorrected, or is permitted to exist shall constitute a separate and distinct offense. The imposition of a penalty for any single violation or single day shall not excuse the violation or permit it to continue. Each individual act of unauthorized land-clearing, including the unpermitted removal of an individual protected tree or the grading of a distinct area, may be cited as a separate occurrence.

(i) All cleanup, restitution, and environmental remediation costs required to bring the property into compliance with municipal standards shall be independent of, and in addition to, any fine levied under this section.”

Section 2.

This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.