



SENATE BILL 292: Ord. Violation/No Auto Misdemeanor.

2017-2018 General Assembly

Committee:	House Judiciary III. If favorable, re-refer to State and Local Government II	Date:	June 13, 2017
Introduced by:	Sens. Lee, J. Jackson, Britt	Prepared by:	Brad Krehely
Analysis of:	Second Edition		Committee Co-Counsel

OVERVIEW: *Senate Bill 292 would provide that violation of a city or county ordinance is not automatically punishable as a misdemeanor or infraction unless expressly stated in the city or county ordinance, with some exceptions that may never be punishable as a misdemeanor or infraction. The act would become effective December 1, 2017, and would apply to the enforcement of any ordinance on or after that date.*

CURRENT LAW: Unless other punishment is otherwise provided by the county or city, any person who violates an ordinance of a county, city, or metropolitan sewerage district, is guilty of a Class 3 misdemeanor and subject to a fine of not more than \$500.00. However, no fine may exceed \$50.00 unless the ordinance expressly states that the maximum fine is greater than \$50.00. If any person violates an ordinance of a county or city regulating the operation or parking of vehicles, the person is responsible for an infraction and is be required to pay a penalty of not more than \$50.00. G.S. 14-4. G.S. 153A-123(b), G.S. 160A-175(b).

A county or city may provide for fines and penalties for violation of its ordinances and may secure injunctions and abatement orders to further insure compliance with its ordinances. An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is equal to, or less than that stated in the criminal law. An ordinance may provide for one or more enforcement mechanisms, including criminal penalties. G.S. 153A-123, G.S. 160A-175.

BILL ANALYSIS: The bill would eliminate the default enforcement by criminal law for county and city ordinances. Instead, a county or city could 'opt in' to criminal penalties for any ordinance, except those ordinances specifically enumerated. If the county or city opted for criminal penalties to enforce an ordinance, that ordinance could not be enacted at the meeting in which it was first introduced.

The list of county and city ordinances for which there could be no criminal penalties would be:

- Planning and Regulation of Development, except for those ordinances related to unsafe buildings.
- Stream clearing programs.
- Regulating and licensing businesses, trades, etc.

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- Regulation of outdoor advertising.
- Limitations on regulating solar collectors.
- Limitations on regulating cisterns and rain barrels.
- Building setback lines.
- Regulating trees.

No county ordinance providing for the annual registration of mobile homes or house trailers may be enforceable as a crime. Cities only have the authority to regulate taxis and curb cuts by ordinance; neither would be enforceable as a crime.

EFFECTIVE DATE: December 1, 2017, and applies to the enforcement of any county or city ordinance on or after that date.

R. Erika Churchill, Staff Attorney for the Legislative Analysis Division, contributed substantially to this summary.