

RECEIVED
98 JUL 22 PM 12 32
OFFICE OF WEST VIRGINIA
SPEAKER OF SENATE

WEST VIRGINIA LEGISLATURE

SECOND EXTRAORDINARY SESSION, 1998



ENROLLED

House Bill No. 104

(By Mr. Speaker, Mr. Kiss and
Delegate Ashley)



Passed July 14, 1998

In Effect from Passage

RECEIVED
98 JUL 22 PM 12:32
OFFICE OF THE CLERK
LEGISLATIVE DEPARTMENT

ENROLLED
H. B. 104

(BY MR. SPEAKER, MR. KISS, AND DELEGATE ASHLEY)

[Passed July 14, 1998; in effect from passage.]

AN ACT to amend and reenact sections one and one-a, article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating generally to the authority of municipalities to prescribe reasonable penalties in the form of fines, forfeitures and imprisonment; and providing for the assessment of additional costs against a defendant.

Be it enacted by the Legislature of West Virginia:

That sections one and one-a, article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 11. POWERS AND DUTIES WITH RESPECT TO
ORDINANCES AND ORDINANCE PRO-
CEDURES.**

**§8-11-1. Ordinances to make municipal powers effective;
penalties imposed under judgment of mayor or
police court or municipal judge; right to injunctive
relief; right to maintain action to collect fines;
additional assessment of costs.**

- 1 (a) To carry into effect the powers and authority
- 2 conferred upon any municipality or its governing body
- 3 by the provisions of this chapter, or any past or future act

4 of the Legislature of this state, the governing body has
5 plenary power and authority to:

6 (1) Make and pass all needful ordinances, orders,
7 bylaws, acts, resolutions, rules and regulations not contrary
8 to the constitution and laws of this state; and

9 (2) Prescribe reasonable penalties for violation of its
10 ordinances, orders, bylaws, acts, resolutions, rules and
11 regulations, in the form of fines, forfeitures and
12 confinement in the county or regional jail or the place of
13 confinement in the municipality, if there is one, for a term
14 not exceeding thirty days.

15 (b) The fines, forfeitures and confinement shall be
16 recovered, imposed or enforced under the judgment of the
17 mayor of the municipality or the individual lawfully
18 exercising the mayor's functions, or the police court judge
19 or municipal court judge of a city, if there is one, and may
20 be suspended upon reasonable conditions as may be
21 imposed by the mayor, other authorized individual or
22 judge.

23 (c) Any municipality may also maintain a civil action
24 in the name of the municipality in the circuit court of the
25 county in which the municipality or the major portion of
26 the territory of the municipality is located to obtain an
27 injunction to compel compliance with, or to enjoin a
28 violation or threatened violation of, any ordinance of the
29 municipality, and the circuit court has jurisdiction to grant
30 the relief sought. A certified transcript of a judgment for
31 a fine rendered by a municipal court may be filed in the
32 office of the clerk of a circuit court and docketed in the
33 judgment lien book kept in the office of the clerk of the
34 county commission in the same manner and with the same
35 effect as the filing and docketing of a certified transcript
36 of judgment rendered by a magistrate court as provided
37 for in section two, article six, chapter fifty of this code.
38 The judgment shall include costs assessed against the
39 defendant.

40 (d) In addition to any other costs which may be
41 lawfully imposed, an additional cost shall be imposed in
42 an amount of not less than forty-two dollars for a traffic

43 offense constituting a moving violation, regardless of
44 whether the penalty for the violation provides for a period
45 of incarceration, and for any other offense for which the
46 ordinance prescribing the offense provides for a period of
47 incarceration.

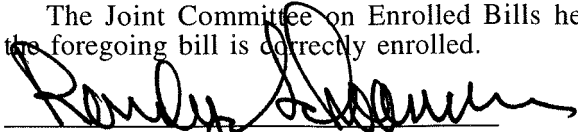
48 (3) Of the forty-two dollars imposed as an additional
49 cost, two dollars are administrative costs to be retained by
50 the municipality, and forty dollars shall be paid into the
51 regional jail and correctional facility development fund in
52 the state treasury in accordance with section one-a of this
53 article.

54 (e) Execution shall be by fieri facias issued by the
55 clerk of the circuit court in the same manner as writs are
56 issued on judgments for a fine rendered by circuit courts
57 or other courts of record under the provisions of section
58 eleven, article four, chapter sixty-two of this code.

**§8-11-1a. Disposition of criminal costs into state treasury
account for regional jail and correctional facility
development fund.**

1 The clerk of each municipal court, or other person
2 designated to receive fines and costs, shall at the end of
3 each month pay into the regional jail and correctional
4 facility development fund in the state treasury an amount
5 equal to forty dollars of the costs collected in each
6 proceeding involving a traffic offense constituting a
7 moving violation, regardless of whether the penalty for
8 such violation provides for a period of incarceration, or
9 any other offense for which the ordinance prescribing the
10 offense provides for a period of incarceration: *Provided,*
11 That in a case where a defendant has failed to pay all costs
12 assessed against him or her, no payment shall be made to
13 the regional jail and correctional facility development
14 fund unless and until the defendant has paid all costs
15 which, when paid, are available for the use and benefit of
16 the municipality.

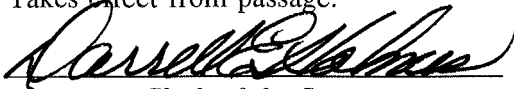
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

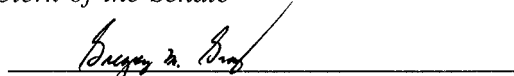

Chairman Senate Committee

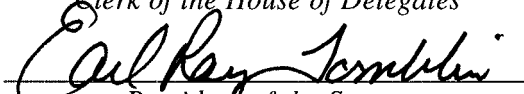

Chairman House Committee

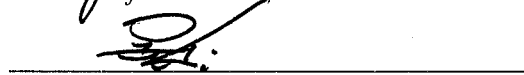
Originating in the House.

Takes effect from passage.

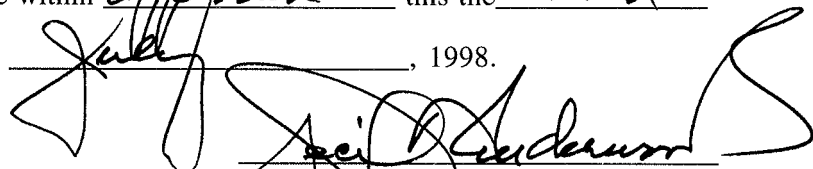

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 2nd
day of July, 1998.


Governor

PRESENTED TO THE

GOVERNOR

Date 7/20/98

Time 10:41 am