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HOUSE BILL 935

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Joseph Cervantes

AN ACT

**RELATING TO THE ENFORCING OF COUNTY ORDINANCES; CREATING A
QUASI - JUDICIAL ADMINISTRATIVE PROCESS.**

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

**Section 1. Section 4-37-3 NMSA 1978 (being Laws 1975,
Chapter 312, Section 3, as amended) is amended to read:**

"4-37-3. ENFORCING COUNTY ORDINANCES-- JURISDICTION. --

**A. County ordinances may be enforced by
prosecution for violations of those ordinances in any court of
competent jurisdiction of the county. Penalties for
violations of any county ordinances shall not exceed a fine of
three hundred dollars (\$300) or imprisonment for ninety days
or both the fine and imprisonment; except that a county may
enact and enforce ordinances that impose the following
penalties in addition to any other penalty provided by law:**

underscored material = new
[bracketed material] = delete

1 (1) no more than one thousand dollars
2 (\$1,000) for discarding or disposing of refuse, litter or
3 garbage on public or private property in any manner other than
4 by disposing it in an authorized landfill;

5 (2) no more than five thousand dollars
6 (\$5,000) for the improper or illegal disposal of hazardous
7 materials or waste in any manner other than as provided for in
8 the Hazardous Waste Act; and

9 (3) no more than imprisonment for three
10 hundred sixty-four days or a fine of one thousand dollars
11 (\$1,000), or both, for violation of an ordinance regarding
12 driving while under the influence of intoxicating liquor or
13 drugs.

14 B. Prosecution of violations under this section
15 may be commenced by the issuance of a citation charging the
16 violation. Citations may be issued by the code enforcement
17 officer of the county or an employee ~~[or employees]~~ of the
18 county authorized by the board of county commissioners to
19 issue such citations.

20 C. County ordinances may also be enforced through
21 a quasi-judicial administrative process created by county
22 ordinance. An administrative enforcement ordinance may
23 provide for a hearing officer or other form of quasi-judicial
24 tribunal to impose fines up to the amounts specified in
25 Subsection A of this section, and the counties may collect the

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[bracketed material] = delete

1 fines imposed and utilize those funds for enforcement of its
2 ordinances, including the costs incurred for the quasi-
3 judicial administrative process to enforce the county
4 ordinances. The administrative enforcement ordinance may
5 provide for the county to correct or abate a violation and
6 assess the costs incurred, including reasonable administrative
7 costs, against the violator pursuant to state laws for
8 establishing such property liens. Any such liens shall have
9 the same force and effect as a tax lien. A final decision
10 through the administrative process shall be subject to the
11 provisions of Section 39-3-1.1 NMSA 1978 for appeal of
12 administrative decisions. A fine imposed or costs assessed
13 pursuant to an administrative ordinance as provided in this
14 section shall also be subject to collection by a county
15 through any other means allowed by law for collection of
16 debts. "