

Date of Hearing: June 9, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
SB 60 (Glazer) – As Amended March 4, 2021

SENATE VOTE: 32-5

SUBJECT: Residential short-term rental ordinances: health or safety infractions: maximum fines.

SUMMARY: Establishes enhanced fines for violations of short-term rental ordinances. Specifically, **this bill:**

- 1) Provides that the violation of a short-term rental ordinance that is an infraction is punishable by the following:
 - a) A fine not exceeding \$1,500 for a first violation.
 - b) A fine not exceeding \$3,000 for a second violation of the same ordinance within one year.
 - c) A fine not exceeding \$5,000 for each additional violation of the same ordinance within one year of the first violation.
- 2) Specifies that the penalty limits set by this bill apply only to infractions that pose a threat to public health and safety, and shall not apply to a first time offense of failure to register or pay a business license fee.
- 3) Clarifies that nothing in this bill limits the authority of a county, city, or city and county to establish lower penalties for specific violations by ordinance.
- 4) Requires a county or city levying a fine pursuant to this bill to establish a process for granting a hardship waiver to reduce the amount of the fine upon a showing by a responsible party that the responsible party has made a bona fide effort to comply after the first violation, and that payment of the full amount of the fine would impose an undue financial burden on the responsible party.
- 5) Provides the following definitions for the purposes of this bill:
 - a) “Short-term rental” means a residential dwelling, or any portion of a residential dwelling, that is rented to a person or persons for 30 consecutive days or less.
 - b) “Residential dwelling” means a private structure designed and available, pursuant to applicable law, for use and occupancy as a residence by one or more individuals. “Residential dwelling” does not include a commercially operated hotel, motel, bed and breakfast inn, or time share property as defined pursuant to existing law, as specified.

FISCAL EFFECT: None

COMMENTS:

- 1) **Background.** A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. This "police power" provides the right to adopt and enforce zoning regulations, as long as they do not conflict with state laws.

Current law allows counties and cities to establish ordinances, and makes violations of ordinances misdemeanors, unless by ordinance the county or city makes them infractions. The violation of an ordinance may be prosecuted by county or city authorities in the name of the people of the State of California, or redressed by civil action. Current law outlines the following fine structure for ordinance violations, and for building and safety code violations, that are determined to be infractions:

Number of violations within specified time periods	Amount of fine for ordinance violations that are infractions	Amount of fine for building and safety code violations that are infractions
First violation	Fine does not exceed \$100	Fine does not exceed \$130
Second violation within one year of first violation	Fine does not exceed \$200	Fine does not exceed \$700
Third violation within one year of first violation	Fine does not exceed \$500	Fine does not exceed \$1,300

For building and safety code violations that are infractions, there is an enhanced fine of \$2,500 for each additional violation of the same ordinance within two years of the first violation if the property is a commercial property that has an existing building at the time of the violation and the violation is due to failure by the owner to remove visible refuse or failure to prohibit unauthorized use of the property.

In addition to the fines outlined above, counties (not cities) may assess fines specifically for a violation of an event permit requirement that is an infraction. These fines are capped at \$150 for a first violation, \$700 for a second occurrence of the same violation by the same owner or operator within three years of the first violation, and \$2,500 for each additional occurrence of the same violation by the same owner or operator within three years of the first violation.

- 2) **Short-term Rentals.** California has seen a rise in the home sharing industry with companies such as Airbnb, Expedia, and Vacation Rentals by Owner (VRBO) gaining popularity due to their short-term rental practice. Short-term rentals, also known as vacation-rentals, are usually an individual’s residential property, such as a home, room, apartment, or condominium that is rented out to a visitor for fewer than 30 consecutive days. Generally, the home sharing industry involves three primary participants: (1) the home sharing platforms, such as Airbnb, that advertise residential property offered for temporary rental and facilitates connecting renters with hosts for a fee, (2) the consumer who is often referred to as the “renter,” “guest,” or “visitor” of the residential property, and (3) the supplier, owner, operator, or “host” of the residential property. Short-term rentals are not a new practice, but

the development of online hosting platforms, bookings, advertisements, and payments has increased the level and popularity of short-term rentals usage.

By some reports, there were 1.8 million short-term rental listings in the United States in 2018. California's 235,000 short-term rental listings are second in the nation (Florida being first). The popularity of short-term rentals could be attributed to its tourist and economic benefits. Homeowners utilizing online home sharing platforms, like Airbnb, can provide an opportunity to earn additional income to offset the cost of maintaining their residential property. For travelers, online rental platforms provides an online streamlined approach to obtaining booking as opposed to traditional booking of motels or hotels.

However, short-term rentals also present local elected officials with a new set of challenges with short-term renters creating parking, trash, and safety concerns. As local agencies struggle with the impacts from the growing popularity of short-term rentals, cities and counties are adopting ordinances to regulate or to prohibit short-term rentals.

- 3) **Short-term Rental Ordinances.** Generally, most of the current short-term rental ordinances include regulations on permitting, tax compliance, noise, parking, and occupancy, as well as host and platform obligations and responsibilities. For instance, most short-term rental ordinances require short-term rentals to limit the number of occupants per bedroom in the residential property and require the host to be physically present to monitor and regulate activity during the short-term rental for a specified number of days. However, short-term rental ordinances' regulations and requirements vary from jurisdiction to jurisdiction.

Violating a short-term rental ordinance usually results in a penalty. However, each city and county that has a short-term rental ordinance has different fine amounts and schedules and may or may not specify whether the penalty is imposed on the host, guest, or platform.

- 4) **Author's Statement.** According to the author, "According to vacation rental data compiled by AirDNA, short-term rentals such as Airbnb and Vrbo have increased by 105% over the past three years. Though short-term rentals offer a way to improve tourism and earn owners some extra money, their recent proliferation has allowed bad actors to use the platform to advertise and secure homes for large parties, oftentimes in violation of local ordinances.

"The Covid-19 pandemic has led to increase in people using short-term rentals to evade public health restrictions on large public gatherings. Host Compliance, which tracks legal compliance among short-term rentals for 350 cities and counties in the U.S, has found that noise complaints as a result of parties have tripled since the start of the pandemic. These large gatherings have made some short-term rental properties the sites of underage drinking, brawls, noise complaints, and violence. In the last half of 2019, 42 people were shot inside or just outside a short-term rental property nationwide and 17 people died.

"Unfortunately, the fines cities are allowed to levy under current law are too low to deter violations. Hosts can charge so much rent for big houses that the fines, if they occur, are just a cost of doing business. In order to improve the safety of our citizens, this bill would increase fines that cities and counties are allowed to impose on short-term rental hosts who violate local property rental laws. SB 60 would authorize imposed fines up to \$5,000 for a violation of a short-term ordinance."

5) **Bill Summary.** This bill establishes enhanced fines for violations of short-term rental ordinances that are determined to be infractions, as follows:

- a) A fine not exceeding \$1,500 for a first violation.
- b) A fine not exceeding \$3,000 for a second violation of the same ordinance within one year.
- c) A fine not exceeding \$5,000 for each additional violation of the same ordinance within one year of the first violation.

These fines apply only to infractions that pose a threat to public health and safety, and do not apply to a first time offense of failure to register or pay a business license fee.

A county or city levying a fine pursuant to this bill must establish a process for granting a hardship waiver to reduce the amount of the fine upon a showing by a responsible party that the responsible party has made a bona fide effort to comply after the first violation, and that payment of the full amount of the fine would impose an undue financial burden on the responsible party.

This bill is sponsored by the author.

6) **Previous Legislation.** SB 1049 (Glazer) was nearly identical to this bill. SB 1049 died on concurrence in the Senate.

AB 2598 (Quirk), Chapter 970, Statutes of 2018, increased the fine amounts that counties and cities may assess for violations of their building and safety codes, and created a new fine for specified violations of building and safety codes on commercial property.

AB 556 (Limón), Chapter 405, Statutes of 2017, allowed counties to assess increased fines for a violation of an event permit requirement that is an infraction as follows: a fine not exceeding \$150 for the first violation; a fine not exceeding \$700 for a second occurrence of the same violation by the same owner or operator within three years of the first violation; and, a fine not exceeding \$2,500 for each additional occurrence of the same violation by the same owner or operator within three years of the first violation.

7) **Arguments in Support.** The League of California Cities writes, “Under existing law, a fine may not exceed \$1,300 for each additional violation of the same ordinance within one year. For many cities this limit is not effective. The fines cities can levy under current law are often too low to deter violations and at times are considered a part of doing business for those who set out to violate local short-term rental ordinances.

“The rise in the use of short-term rentals necessitates the need for cities to have an effective tool to deter habitual violations of short-term rental ordinances. Recent cases demonstrate the importance of this tool for the safety and wellbeing of communities across the state. This measure would increase the effectiveness of the current penalty structure with the intent of deterring violations of short-term rental ordinances that have in the worst circumstances led to unauthorized mass gatherings, underage drinking, brawls, noise complaints, violence, and tragically even death.”

8) **Concerns.** The Southern California Rental Housing Association writes, “Currently the bill is unclear as to who the fine would be levied against. If the bill is clarified to ensure any fine being levied, is levied on the person hosting the short-term rental, the SCRHA would support the bill. Subletting your rental unit is usually a violation of ones lease agreement. However, there are renters that still list their rental unit on hosting platforms unbeknownst to the property owner. Should the person listing the (unit) on one of these platforms be found in violation of a city’s short-term rental ordinance, any fine should be to the person listing the unit on the hosting platform, not the owner of the property.”

9) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

California Hotel & Lodging Association
California Travel Association (CALTIA)
City of Alameda
City of Dana Point
City of Murrieta
City of Orinda
City of Santa Monica
Community Associations Institute - California Legislative Action Committee
Expedia
League of California Cities

Concerns

Southern California Rental Housing Association

Opposition

None on file

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