EHB 2099

THE STATE SENATE
Thursday, March 30, 2006

ENGROSSED

House Bill No. 2099

ENGROSSED HOUSE BILL NO. 2099 - By: DANK, NANCE and NATIONS of the House and CAIN of the Senate.

An Act relating to cities and towns; amending 11 O.S. 2001, Sections 27-119, 28-102, as last amended by Section 6, Chapter 173, O.S.L. 2004, and 28-113 (11 O.S. Supp. 2005, Section 28-102), which relate to municipal courts; modifying requirements for municipal jury trials; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 11 O.S. 2001, Section 27-119, is amended to read as follows:

Section 27-119. In all prosecutions in the municipal court for any offense for which the municipality, with the concurrence of the court, seeks imposition of a fine of more than ~~Two Hundred Dollars ($200.00)~~ Five Hundred Dollars ($500.00), excluding court costs, or imprisonment, or both such fine and imprisonment, a jury trial shall be had unless waived by the defendant and the municipality, provided that the municipality has compiled its penal ordinances in accordance with the provisions of Sections 14-109 and 14-110 of this title. If the municipality has not compiled its ordinances as provided by law, the fine shall not exceed Fifty Dollars ($50.00). In prosecutions for all other offenses, or in cases wherein a jury

(Bold face denotes Committee Amendments)

trial is waived by the defendant and the municipality, trial shall be to the court. A jury in the municipal court shall consist of six (6) jurors, five of whom may return a verdict. Jurors shall be good and lawful men or women, citizens of the county in which the court sits, having the qualifications of jurors in the district court.

SECTION 2. AMENDATORY 11 O.S. 2001, Section 28-102, as last amended by Section 6, Chapter 173, O.S.L. 2004 (11 O.S. Supp. 2005, Section 28-102), is amended to read as follows:

Section 28-102. A. The municipal criminal courts of record shall have original jurisdiction to hear and determine all prosecutions when a violation of any of the ordinances of the city where the court is established is charged, as provided by Article VII, Section 1 of the Oklahoma Constitution.

B. ~~Except in~~ In cases when the penalty provided for the violation of an ordinance is a fine in the amount of ~~Two Hundred Dollars ($200.00) or less~~ more than Five Hundred Dollars ($500.00), excluding court costs, or by imprisonment, or by both such fine and imprisonment, all persons charged before such municipal criminal court of record shall be entitled to a trial by jury, unless waived by the defendant. Judgment and sentence imposed by the judge shall be as effective as if the same had been rendered and imposed by a jury.

C. The maximum punishment that may be levied in any municipal criminal court of record is a fine not exceeding One Thousand Two Hundred Dollars ($1,200.00) and costs, an imprisonment not to exceed six (6) months, or both such fine and imprisonment. Provided, the maximum punishment that may be levied in any municipal criminal court of record for violations of municipal traffic ordinances not including ordinances relating to driving a motor vehicle under the influence of alcohol or drugs is a fine not exceeding Seven Hundred Fifty Dollars ($750.00) and costs, an imprisonment not to exceed ninety (90) days, or both such fine and imprisonment. Provided, further that any municipal criminal court of record may levy a fine not to exceed One Thousand Dollars ($1,000.00) and costs, an imprisonment not to exceed six (6) months, or both such fine and imprisonment for violations of municipal ordinances regulating the pretreatment of wastewater and regulating stormwater discharges. Provided, further, that for violations of municipal ordinances relating to prostitution, including but not limited to engaging in prostitution or soliciting or procuring prostitution, any municipal criminal court of record in cities with more than two hundred thousand (200,000) in population may levy an imprisonment not to exceed six (6) months, and fines as follows: a fine not to exceed Two Thousand Five Hundred Dollars ($2,500.00) upon the first conviction for violation of any such ordinances, a fine of not more

than Five Thousand Dollars ($5,000.00) upon the second conviction for violation of any of such ordinances, and a fine of not more than Seven Thousand Five Hundred Dollars ($7,500.00) upon the third or subsequent convictions for violation of any of such ordinances, or both such fine and imprisonment, as well as a term of community service of not less than forty (40) nor more than eighty (80) hours. If imprisonment is available for the offense, then that person charged shall have a right to a jury trial.

D. A defendant who has been in jeopardy for the same or any lesser included offense in the municipal criminal court of record or district court shall not be prosecuted in any other court for the same or a lesser included offense.

SECTION 3. AMENDATORY 11 O.S. 2001, Section 28-113, is amended to read as follows:

Section 28-113. A. All prosecutions commenced in a municipal criminal court of record shall be by information, pursuant to Section 16-108 of Title 47 of the Oklahoma Statutes, for traffic offenses and by information as in the district courts in other cases, which shall be subscribed by the person making complaint and shall be verified before a judge, the court clerk, or a deputy court clerk. All prosecutions for the violation of municipal ordinances shall be styled, "The City of _____ (naming the municipality) vs. _____ (naming the person or persons charged)".

B. Upon receipt of a traffic ticket or complaint by the court clerk, other than a traffic ticket which has been signed by the arrested person as a plea of guilty, the court clerk shall either prepare a copy of the ticket or complaint and deliver the original or duplicate original to the municipal attorney, or record the ticket on a list maintained in the clerk's office and deliver the ticket to the municipal attorney for his disposition. After disposition of the ticket by the municipal attorney, the name shall be removed from the list by the court clerk. A traffic ticket or complaint that is certified by the arresting officer, the complainant, or the municipal attorney, shall constitute an information against the person arrested and served with the traffic ticket or complaint. The ticket or complaint shall be endorsed by the municipal attorney before it is filed with the court clerk; except if the person arrested and served with a traffic ticket or complaint either at the time he is arrested or at a subsequent time shall indicate in writing on the ticket or complaint, above his signature, that he elects to plead guilty to the violation charged, the traffic ticket or complaint shall be filed with the court clerk, as an information, without the endorsement of the municipal attorney, and it shall be the duty of the court clerk to notify the municipal attorney as to the fact of such filing.

C. The municipal governing body, by ordinance, may prescribe a schedule of fines for nonjury cases which a defendant may pay in lieu of an appearance before the municipal court, and such payment shall constitute a final determination of the cause against the defendant; provided, however, this subsection shall not apply to those offenses for which the penalty is a fine of more than ~~Two Hundred Dollars ($200.00)~~ Five Hundred Dollars ($500.00).

SECTION 4. This act shall become effective November 1, 2006.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-28-06 - DO PASS, As Coauthored.