

CHAPTER 231  
FORMERLY  
SENATE BILL NO. 85

AN ACT TO AMEND TITLES 11 AND 21 OF THE DELAWARE CODE RELATING TO TRANSFER OF CASES BETWEEN ALDERMAN'S OR MAYOR'S COURTS AND THE JUSTICE OF THE PEACE COURT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 703, Title 21 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 703. Jurisdiction of offenses.

(e) Notwithstanding any other provision of this section to the contrary, in those incorporated municipalities which provide duly constituted alderman's courts or mayor's courts, the alderman and mayor shall continue to hear and adjudicate those cases in which a person is arrested without a warrant and where the alderman's court or the mayor's court is the court of original jurisdiction. As justice requires, the alderman's court or the mayor's court may administratively transfer a case that would be within the jurisdiction of that court to the Justice of the Peace Court.

Section 2. Amend § 5917, Title 11 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 5917. Jurisdiction over violations of ordinances, codes and regulations of the governments of the several counties and municipalities; penalty; appeal; disposition of fines.

(a) Justices of the peace shall have jurisdiction throughout the State to hear, try and finally determine any violation or violations of any ordinance, code or regulation of the governments of their respective counties and municipalities, including those classified in such ordinance, code or regulation as misdemeanors. Any person convicted of such violations may be fined not more than \$1,000 for each violation. The Justice of the Peace Court shall accept administrative transfers from an alderman court or mayor's court.

(b) Notwithstanding the foregoing, in any municipality with a population greater than 50,000 people, and in New Castle County, any offense under the building, housing, health or sanitation code which is classified therein as a misdemeanor, the sentence for any person convicted of such a misdemeanor offense shall include the following fines and may include restitution or such other conditions as the court deems appropriate:

- (1) For the first conviction: no less than \$250, nor more than \$1,000;
- (2) For the second conviction for the same offense: no less than \$500, nor more than \$2,500; and
- (3) For all subsequent convictions for the same offense: no less than \$1,000 nor more than \$5,000.

(c) In any municipality with a population greater than 50,000 people, a conviction for a misdemeanor offense, which is defined as a "continuing" or "ongoing" violation, shall be considered a single conviction for the purposes of paragraphs ~~(a)~~(b)(1)-(3) of this section. For all convictions subsequent to the second, the minimum fines required herein shall not be suspended, but such amounts imposed over the minimum may be suspended or subject to such other conditions as the court deems appropriate. The provisions of this subsection relating to municipalities with a

population greater than 50,000 people shall not apply to offenses or convictions involving single family residences that are occupied by an owner of the property.

~~(b)~~(d) Every person convicted under this section shall have the right to appeal to the Court of Common Pleas of this State. No such conviction or sentence shall be stayed pending appeal unless the person convicted shall give bond in an amount and with surety to be fixed by the justice of the peace before whom such person was convicted, at the time such appeal was taken. Such appeal shall be taken and bond given within 5 days from the time of conviction.

~~(e)~~(e) Election to have a case tried by the Court of Common Pleas pursuant to § 5303 of this title shall not be applicable to violations under this section, except that any violation under this section accompanied in the same case by an additional charge or charges over which the Court of Common Pleas has jurisdiction is eligible to be transferred under such election.

~~(f)~~(f)-All fines collected for the violation of any ordinance, code or regulation of any county or municipality of this State where a summons was issued or where an arrest was procured by the authorized representatives of that county or municipality shall be paid to that county or municipality within which such violation occurred for the use of that county or municipality; otherwise such fines shall inure and be paid to the State Treasurer for the General Fund. Nothing in this subsection shall be construed to entitle any county to fines, penalties or forfeitures arising from a summons issued or an arrest made under this section by an authorized representative of that county for a violation committed within any incorporated city or town. Fines, penalties and forfeitures collected under this section shall be collected and disbursed as other fines, penalties and forfeitures are collected and disbursed under the laws of this State, and the officers collecting them shall make a monthly report thereof to the State Treasurer on blanks to be furnished for that purpose by the Department of Safety and Homeland Security. All costs collected for the violation of any county or municipal ordinance, code or regulation shall be paid to the jurisdiction whose court imposed said costs.

Approved February 10, 2020