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SENATE BILL NO. 111

Offered January 11, 2006

Prefiled January 9, 2006

A BILL to amend and reenact § 15.2-2209 of the Code of Virginia, relating to zoning violations; civil penalties.

Patrons—Howell and Ticer; Delegates: Callahan, Rust, Scott, J.M. and Watts

Referred to Committee on Local Government

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2209 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2209. Civil penalties for violations of zoning ordinance.

Notwithstanding provision 5 of § 15.2-2286, any locality may adopt an ordinance that establishes a uniform schedule of civil penalties for violations of specified provisions of the zoning ordinance. The schedule of offenses shall not include any zoning violation resulting in injury to any persons, and the existence of a civil penalty shall not preclude action by the zoning administrator under provision 4 of § 15.2-2286 or action by the governing body under § 15.2-2208.

This schedule of civil penalties shall be uniform for each type of specified violation, and the penalty for any one violation shall be a civil penalty of not more than ~~$100~~ *$200* for the initial summons and not more than ~~$250~~ *$500* for each additional summons. Each day during which the violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties that exceed a total of ~~$5,000~~ *$10,000*. Designation of a particular zoning ordinance violation for a civil penalty pursuant to this section shall be in lieu of criminal sanctions, and except for any violation resulting in injury to persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor.

The zoning administrator or his deputy may issue a civil summons as provided by law for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the department of finance or the treasurer of the locality prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.

If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation authorized by this section, it shall be the burden of the locality to show the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

No provision herein shall be construed to allow the imposition of civil penalties (i) for activities related to land development or (ii) for violation of any provision of a local zoning ordinance relating to the posting of signs on public property or public rights-of-way.