

**SENATE . . . . . No. 2300**

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The Commonwealth of Massachusetts

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**In the Year Two Thousand Twelve**  
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An Act relative to the effective enforcement of municipal ordinances and bylaws.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 21D of chapter 40 of the General Laws, as appearing in the 2010  
2 Official Edition, is hereby amended by adding the following paragraph:-

3           Notwithstanding this section or any other general or special law to the contrary, in any  
4 suit in equity brought in the superior court or the land court by a city or town, or a municipal  
5 agency, officer, board or commission having enforcement powers on behalf of the city or town,  
6 to enforce an ordinance or by-law, or a rule, regulation or order described in this section, the  
7 court, upon a finding that the violation occurred, may assess a civil penalty in accordance with  
8 this section and section 21. Civil penalties assessed under this paragraph shall be in addition to  
9 any equitable relief ordered by the court and shall be paid to the city or town for use as the city  
10 or town may determine. In assessing a penalty under this paragraph, the court shall consider: (1)  
11 whether the violation was willful or negligent; (2) the harm to the public health, safety or  
12 environment resulting from the violation; (3) the economic benefit gained by the defendant as a  
13 result of the violation; (4) the cost to the city or town resulting from the violation, including its  
14 enforcement costs and reasonable attorneys fees; (5) the history of noncompliance by the

15 defendant; and (6) whether the defendant made good faith efforts to cure or cease the violation of  
16 the ordinance or by-law after the first notice by the city or town of such violation.