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### **Administrative Citations for Traffic Violations**

*By Rebecca Otto, State Auditor*

Prior to the 2009 legislative session, the Office of the State Auditor and the Minnesota Attorney General's Office agreed that local governments in Minnesota lacked authority to issue administrative fines for traffic offenses. Some local governments, however, had implemented administrative penalty programs to enforce traffic laws.

The Minnesota Legislature debated the issue in recent years. Finally, in 2009, the Legislature enacted a new statute, Minn. Stat. § 169.999, to authorize the issuance of administrative citations and prescribe criteria for them. *See* 2009 Minn. Laws, ch. 158. This new authority contains many detailed requirements which local units of government will have to follow to use administrative citations. The Office of the State Auditor offers this article as a helpful introduction to the requirements of the new law.

#### **Resolution Required**

Among other provisions, the new law requires the governing board of a local unit of government to pass a resolution. The resolution must:

- authorize issuance of administrative citations;
- obligate the local unit of government to provide a neutral third party to hear and rule on challenges to administrative citations; and
- bar peace officers from issuing administrative citations in violation of the new law.

Because of this requirement, local units of government with existing administrative penalty programs for traffic violations will have to pass a new resolution and bring their programs into compliance with the new law. After passing the required resolution, the law requires local units of government to notify the Commissioner of Public Safety.

#### **A Limited List of Covered Offenses**

Peace officers may only issue administrative citations to vehicle operators for specified violations. The violations include:

- speeding under ten miles per hour in excess of the lawful speed limit;
- failing to obey a stop line; and
- violations of Minn. Stat. §§ 169.46 – 169.68 and 169.69 – 169.75 (primarily equipment-related violations).

### **Uniform Administrative Citation**

The Commissioner of Public Safety must create a uniform administrative citation on or before October 1, 2009, after consulting on the form and content of the citation with representatives from the Minnesota Sheriffs' Association, the Minnesota Chiefs of Police Association, and the Minnesota Police and Peace Officers Association.

The law requires the use of this new uniform administrative citation prescribed by the Commissioner of Public Safety, who is required to prescribe the detailed form of the uniform administrative citation and revise it as necessary and proper. The uniform administrative citation must include notice that the person has the right to contest the citation.

### **Right to Contest an Administrative Citation**

The local unit of government must provide a civil process for a person to contest the administrative citation, and peace officers who issue administrative citations must inform the vehicle operator of his or her right to contest the citation. The person must be allowed to challenge the citation before a neutral third party. The local unit of government may employ a person to hear and rule on challenges, or may contract with another local unit of government or a private entity to provide the service.

### **Amount, Distribution and Use of the Fine**

The fine for an administrative violation must be \$60. If the citation was issued by a peace officer, two-thirds of this amount must be credited to the general fund of the local unit of government, and one-third must be transferred to the Commissioner of Management and Budget for deposit in the state general fund. If the citation was issued by a State Patrol Trooper, one-third must be credited to the general fund of the local unit of government that collects the fine and provides the hearing officer, and two-thirds must be deposited in the state general fund. A local unit of government receiving administrative fine proceeds must use one-half of the funds for law enforcement purposes. This money "must be used to supplement but not supplant any existing law enforcement funding."

### **Reporting**

A county, city, or town that issues administrative citations and collects administrative fines under the new law must include that information and the amount collected separately in any financial report, summary, or audit. The State Auditor will annually report information concerning administrative fines collected by local units of government to the Commissioner of Public Safety.

## **Conclusion**

The new law provides clarity by granting and defining the authority that local units of government will have to issue administrative citations. Care will need to be taken, however, to make sure all administrative citation programs conform to the detailed requirements of the new law.