

34A-6-307 Civil and criminal penalties.

- (1) The commission may assess civil penalties against any employer who has received a citation under Section 34A-6-302 as follows:
 - (a) Except as provided in Subsections (1)(b) through (d), the commission may assess up to \$7,000 for each cited violation.
 - (b) The commission may not assess less than \$250 nor more than \$7,000 for each cited serious violation. A violation is serious only if:
 - (i) it arises from a condition, practice, method, operation, or process in the workplace of which the employer knows or should know through the exercise of reasonable diligence; and
 - (ii) there is a substantial possibility that the condition, practice, method, operation, or process could result in death or serious physical harm.
 - (c) The commission may not assess less than \$5,000 nor more than \$70,000 for each cited willful violation.
 - (d) The commission may assess up to \$70,000 for each cited violation if the employer has previously been found to have violated the same standards, code, rule, or order.
 - (e) After the expiration of the time permitted to an employer to correct a cited violation, the commission may assess up to \$7,000 for each day the violation continues uncorrected.
- (2) The commission may assess a civil penalty of up to \$7,000 for each violation of any posting requirement under this chapter.
- (3) In deciding the amount to assess for a civil penalty, the commission shall consider all relevant factors, including:
 - (a) the size of the employer's business;
 - (b) the nature of the violation;
 - (c) the employer's good faith or lack of good faith; and
 - (d) the employer's previous record of compliance or noncompliance with this chapter.
- (4) Any civil penalty collected under this chapter shall be paid into the General Fund.
- (5) Criminal penalties under this chapter are as follows:
 - (a) Any employer who willfully violates any standard, code, rule, or order issued under Section 34A-6-202, or any rule made under this chapter, is guilty of a class A misdemeanor if the violation caused the death of an employee. If the violation causes the death of more than one employee, each death is considered a separate offense.
 - (b) Any person who gives advance notice of any inspection conducted under this chapter without authority from the administrator or the administrator's representatives is guilty of a class A misdemeanor.
 - (c) Any person who knowingly makes a false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter is guilty of a class A misdemeanor.
- (6) After a citation issued under this chapter and an opportunity for a hearing under Title 63G, Chapter 4, Administrative Procedures Act, the division may file an abstract for any uncollected citation penalty in the district court. The filed abstract shall have the effect of a judgment of that court. The abstract shall state the amount of the uncollected citation penalty, reasonable attorneys' fees as set by commission rule, and court costs.

Amended by Chapter 382, 2008 General Session