

**53-7-406 Penalties.**

- (1)
  - (a) Except as provided in Subsection (1)(b), a manufacturer, wholesale dealer, agent, or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of Section 53-7-403:
    - (i) for a first offense shall be liable for a civil penalty not to exceed \$10,000 per each sale of cigarettes; and
    - (ii) for a subsequent offense shall be liable for a civil penalty not to exceed \$25,000 per each sale of such cigarettes.
  - (b) A penalty imposed under Subsection (1)(a) may not exceed \$100,000 during any 30-day period against any one entity described in Subsection (1).
- (2)
  - (a) Except as provided in Subsection (2)(b), a retail dealer who knowingly sells cigarettes in violation of Section 53-7-403 shall:
    - (i) for a first offense for each sale or offer for sale of cigarettes, if the total number of cigarettes sold or offered for sale:
      - (A) does not exceed 1,000 cigarettes, be liable for a civil penalty not to exceed \$500 for each sale or offer of sale; and
      - (B) does exceed 1,000 cigarettes, be liable for a civil penalty not to exceed \$1,000 for each sale or offer of sale; and
    - (ii) for a subsequent offense, if the total number of cigarettes sold or offered for sale:
      - (A) does not exceed 1,000 cigarettes, be liable for a civil penalty not to exceed \$2,000 for each sale or offer of sale; and
      - (B) does exceed 1,000 cigarettes, be liable for a civil penalty not to exceed \$5,000 for each sale or offer of sale.
  - (b) A penalty imposed under Subsection (2)(a) against any retail dealer shall not exceed \$25,000 during a 30-day period.
- (3) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to Section 53-7-404 shall, for each false certification:
  - (a) for a first offense, be liable for a civil penalty of at least \$75,000; and
  - (b) for a subsequent offense, be liable for a civil penalty not to exceed \$250,000.
- (4) Any person violating any other provision in this part shall be liable for a civil penalty for each violation:
  - (a) for a first offense, not to exceed \$1,000; and
  - (b) for a subsequent offense, not to exceed \$5,000.
- (5) In addition to any other remedy provided by law, the state fire marshal or attorney general may file an action in district court for a violation of this part, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation of this part, including enforcement costs relating to the specific violation and attorney fees. Each violation of this part or of rules or regulations adopted under this part constitutes a separate civil violation for which the state fire marshal or attorney general may obtain relief.

Amended by Chapter 394, 2013 General Session