

**§ 58-78A-6. Civil penalties or restitution for violations; administrative procedure.**

(a) This section applies to any person who is subject to licensure by the Office of the State Fire Marshal.

(b) Whenever the State Fire Marshal finds a violation of any of the provisions of this Article, the State Fire Marshal may, in addition to or instead of suspending or revoking the license issued by the State Fire Marshal, order the payment of a monetary penalty as provided in subsection (c) of this section or petition the Superior Court of Wake County for an order directing payment of restitution as provided in subsection (d) of this section, or both. Each day during which a violation occurs constitutes a separate violation.

(c) If the State Fire Marshal orders the payment of a monetary penalty pursuant to subsection (b) of this section, the penalty shall not be less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000). In determining the amount of the penalty, the State Fire Marshal shall consider the degree and extent of harm caused by the violation, the amount of money that inured to the benefit of the violator as a result of the violation, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with laws, rules, or orders applicable to the violator. The clear proceeds of the penalty shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Payment of the civil penalty under this section shall be in addition to payment of any other penalty for a violation of the criminal laws of this State.

(d) Upon petition of the State Fire Marshal, the court may order the person who committed a violation of this Article to make restitution in an amount that would make whole any person harmed by the violation. The petition may be made at any time and also in any appeal of the State Fire Marshal's order. Restitution to any State agency for extraordinary administrative expenses incurred in the investigation and hearing of the violation may also be ordered by the court in such amount that would reimburse the agency for the expenses.

(e) Nothing in this section shall prevent the State Fire Marshal from negotiating a mutually acceptable agreement with any person as to the status of the person's license or as to any civil penalty or restitution.

(f) Unless otherwise specifically provided for, all administrative proceedings under this Article are governed by Chapter 150B of the General Statutes. Appeals of the State Fire Marshal's orders under this section shall be governed by G.S. 58-78A-7. (2023-151, s. 10.1(a).)