

§ 78D-24. Criminal penalties.

(a) Any person who willfully violates any provision of this Chapter is guilty of a felony. If the losses caused by the violation or violations are one hundred thousand dollars (\$100,000) or more, the person is guilty of a Class C felony. If the losses caused by the violation or violations are less than one hundred thousand dollars (\$100,000), the person is guilty of a Class H felony.

(b) Any person convicted of violating a rule or order under this Chapter may be fined, but may not be imprisoned, if the person proves he had no knowledge of the rule or order.

(c) In lieu of a fine otherwise authorized by law, a person who has been convicted of or who has pleaded guilty or no contest to having engaged in conduct in violation of the provisions of this Chapter may be sentenced to pay a fine that does not exceed the greater of three times the gross value gained or three times the gross loss caused by such conduct, plus court costs and the costs of investigation and prosecution, reasonably incurred.

(d) The Administrator may refer such evidence as is available concerning violations of this Chapter or any rule or order of the Administrator to the Attorney General or the proper district attorney, who may, with or without such a reference from the Administrator, institute the appropriate criminal proceedings under this Chapter. Upon receipt of such reference, the Attorney General or the district attorney may request that a duly employed attorney of the Administrator prosecute or assist in the prosecution of such violation or violations on behalf of the State. Upon approval of the Administrator, such employee shall be appointed a special prosecutor for the Attorney General or the district attorney to serve without compensation from the Attorney General or district attorney. Such special prosecutor shall have all the powers and duties prescribed by law for Assistant Attorneys General or district attorneys and such other powers and duties as are lawfully delegated to such special prosecutor by the Attorney General or the district attorney.

(e) Nothing in this Chapter limits the power of the State to punish any person for any conduct which constitutes a crime by statute or at common law. (1989, c. 634, s. 1; 2003-413, s. 26.)