

§ 95-111.13. Violations; civil penalties; appeal; criminal penalties.

(a) Any person who violates G.S. 95-111.7(a) or (b) (Operation without certificate; operation not in accordance with Article or rules and regulations) or G.S. 95-111.8 (Location notice) is subject to a civil penalty not to exceed one thousand two hundred fifty dollars (\$1,250) for each rule, regulation, or section of this Article violated and for each day each device is so operated or used.

(b) Any person who violates G.S. 95-111.7(c) (Operation after refusal to issue or after revocation of certificate) or G.S. 95-111.10(c) (Reports required) or G.S. 95-111.12 (Liability insurance) is subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each day each device is so operated or used.

(c) Repealed by Session Laws 2015-152, s. 2, effective July 16, 2015, and applicable to violations occurring on or after that date.

(d) Any person who violates the provisions of G.S. 95-111.10(d) (Reports required) or knowingly permits the operation of an amusement device in violation of G.S. 95-111.11(a) (Operator requirements) is subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each day each device is so operated or used.

(e) Any person who violates G.S. 95-111.9 (Operation of unsafe device) or G.S. 95-111.11(b) (Operation of an amusement device while impaired) is subject to a civil penalty not to exceed five thousand dollars (\$5,000) for each day each device is so operated or used.

(f) In determining the amount of any penalty ordered under authority of this section, the Commissioner shall give due consideration to the appropriateness of the penalty with respect to the annual gross volume of the person being charged, the gravity of the violation, the good faith of the person, and the record of previous violations.

(g) The determination of the amount of the penalty by the Commissioner is final, unless within 15 days after receipt of notice thereof by certified mail with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery, the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding and in a judicial proceeding pursuant to Chapter 150B of the General Statutes, the Administrative Procedure Act.

(h) The Commissioner may file in the office of the clerk of the superior court of the county wherein the person, against whom a civil penalty has been ordered, resides, or if a corporation is involved, in the county wherein the corporation maintains its principal place of business, or in the county wherein the violation occurred, a certified copy of a final order of the Commissioner unappealed from, or of a final order of the Commissioner affirmed upon appeal. Whereupon, the clerk of said court shall enter judgment in accordance therewith and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though said judgment had been rendered in a suit duly heard and determined by the superior court of the General Court of Justice.

(i) Except as provided under subsection (j) of this section, any person who willfully violates any provision of this Article is guilty of a Class 2 misdemeanor, which may include a fine of not more than ten thousand dollars (\$10,000); except that if the conviction is for a violation committed after a first conviction of the person, the person shall be guilty of a Class 1 misdemeanor, which may include a fine of not more than twenty thousand dollars (\$20,000).

(j) Any person who willfully violates any provision of this Article, and that violation causes the serious injury or death of any person, then the person is guilty of a Class E felony, which shall include a fine.

(k) Nothing in this section prevents any prosecuting officer of the State of North Carolina from proceeding against a person who violates this Article on a prosecution charging

any degree of willful or culpable homicide. (1985 (Reg. Sess., 1986), c. 990, s. 2; 2003-170, s. 5; 2003-308, s. 4; 2007-231, s. 8; 2015-152, s. 2.)