

§ 95-125.3. Violations; civil penalties; appeal; criminal penalties.

(a) Any person who violates G.S. 95-118 (Registration required; application procedures) is subject to a civil penalty not to exceed one thousand two hundred fifty dollars (\$1,250) for each day each device is so operated or used.

(b) Any person who violates G.S. 95-120.1 (Liability insurance) or G.S. 95-125.2 (Reports required) is subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each day each device is so operated and used.

(c) Any person who violates G.S. 95-125.1 (Operation of unsafe device) is subject to a civil penalty not to exceed five thousand dollars (\$5,000) for each day each device is so operated and used.

(d) 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.

(e) The Commissioner's determination of the amount of the penalty 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, by electronic means to include an electronic mail address provided by the person to the Commissioner, with a delivery receipt, that will be effective to give the person notice, 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 pursuant to Chapter 150B of the General Statutes, the Administrative Procedures Act.

(f) 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 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. Upon such filing, the clerk of said court shall enter judgment in accordance with the final order and notify the parties. The judgment shall have the same effect, and all proceedings in relation to the judgment shall thereafter be the same, as though the judgment had been rendered in a suit duly heard and determined by the superior court of the General Court of Justice.

(g) 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.

(h) 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. (2017-211, s. 14(c); 2024-3, s. 5.2.)