

(I) THE COURT GIVES THE COMMISSIONER NOTICE AND AN OPPORTUNITY FOR A HEARING; AND

(II) THE AGGRIEVED OWNER OR USER POSTS SECURITY OR MEETS EACH CONDITION THAT THE COURT CONSIDERS PROPER.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48, § 176A.

In subsection (e) of this section, the word "use" is substituted for the former word "operate" to conform to terminology used throughout this section.

In subsection (f)(2) of this section, the word "may" is substituted for the former word "shall" to clarify that the action may be brought in either of the listed jurisdictions.

- Defined terms: "Boiler" § 12-901
- "Commissioner" § 12-901
- "County" § 1-101
- "Pressure vessel" § 12-901

12-916. CIVIL PENALTIES.

(A) IN GENERAL.

EXCEPT AS OTHERWISE PROVIDED IN § 12-915(E) OF THIS SUBTITLE, THE COMMISSIONER MAY ASSESS A CIVIL PENALTY NOT EXCEEDING \$5,000 FOR EACH VIOLATION AGAINST A PERSON WHO:

- (1) VIOLATES THIS SUBTITLE;
- (2) VIOLATES A REGULATION ADOPTED OR ORDER ISSUED UNDER THIS SUBTITLE; OR
- (3) OPERATES IN THE STATE A BOILER OR PRESSURE VESSEL, EXCEPT A PRESSURE VESSEL COVERED BY AN OWNER-USER INSPECTION SERVICE AS PROVIDED BY THIS SUBTITLE, WITHOUT A CERTIFICATE.

(B) FACTORS TO BE CONSIDERED.

IN ASSESSING THE APPROPRIATENESS OF A CIVIL PENALTY UNDER THIS SECTION, THE COMMISSIONER SHALL GIVE DUE CONSIDERATION TO:

- (1) THE NATURE OR GRAVITY OF THE VIOLATION;
- (2) THE PERSON'S GOOD FAITH; AND
- (3) THE PERSON'S HISTORY OF PREVIOUS VIOLATIONS.

(C) APPEAL; REGULATIONS.

(1) A PERSON MAY REQUEST A HEARING BEFORE THE COMMISSIONER OR THE COMMISSIONER'S AUTHORIZED REPRESENTATIVE TO CONTEST A PROPOSED PENALTY OR AN ALLEGED VIOLATION OF THIS SUBTITLE.