

(2) FOR A SECOND VIOLATION, IS SUBJECT TO A CIVIL PENALTY OF \$100; AND

(3) FOR EACH SUBSEQUENT VIOLATION, IS SUBJECT TO A CIVIL PENALTY NOT LESS THAN \$250.

(B) THE SECRETARY MAY WAIVE A PENALTY ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION, GIVING CONSIDERATION TO FACTORS THAT INCLUDE:

(1) THE SERIOUSNESS OF THE VIOLATION; AND

(2) ANY DEMONSTRATED GOOD FAITH MEASURES TO COMPLY WITH THE PROVISIONS OF THIS SUBTITLE.

(C) (1) THIS SUBSECTION DOES NOT APPLY TO AN ALLEGED VIOLATION OF SUBSECTION (D) OF THIS SECTION.

(2) IT IS AN AFFIRMATIVE DEFENSE TO A COMPLAINT BROUGHT AGAINST A PERSON FOR A VIOLATION OF A PROVISION OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE THAT THE PERSON OR AN EMPLOYEE OF THE PERSON:

(i) POSTED A "NO SMOKING" SIGN AS REQUIRED UNDER § 24-506 OF THIS SUBTITLE;

(ii) REMOVED ALL ASHTRAYS AND OTHER SMOKING PARAPHERNALIA FROM ALL AREAS WHERE SMOKING IS PROHIBITED; AND

(iii) IF THE VIOLATION OCCURRED IN A BAR, TAVERN, OR RESTAURANT:

1. REFUSED TO SEAT OR SERVE ANY INDIVIDUAL WHO WAS SMOKING IN A PROHIBITED AREA; AND

2. IF THE INDIVIDUAL CONTINUED TO SMOKE AFTER AN INITIAL WARNING, ASKED THE INDIVIDUAL TO LEAVE THE ESTABLISHMENT.

~~(B)~~ (D) AN EMPLOYER WHO DISCHARGES OR DISCRIMINATES AGAINST AN EMPLOYEE BECAUSE THAT EMPLOYEE HAS MADE A COMPLAINT, HAS GIVEN INFORMATION TO THE DEPARTMENT IN ACCORDANCE WITH THIS SUBTITLE, HAS CAUSED TO BE INSTITUTED OR IS ABOUT TO CAUSE TO BE INSTITUTED A PROCEEDING UNDER THIS SUBTITLE, OR HAS TESTIFIED OR IS