

(b) Before the Commissioner assesses a civil penalty under § 5-809 of this subtitle, the Commissioner shall consider the appropriateness of the penalty in relation to:

- (1) the size of the business of the employer against whom the penalty is to be assessed;
- (2) the gravity of the violation for which the penalty is to be assessed;
- (3) the good faith of the employer; ~~and~~
- (4) the history of violations by the employer.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1991. ;~~

(5) THE INJURY AND ILLNESS EXPERIENCE OF THE EMPLOYER;

(6) THE EXISTENCE AND QUALITY OF A SAFETY AND TRAINING PROGRAM;

(7) THE ACTUAL HARM TO HUMAN HEALTH INCLUDING INJURY OR ILLNESS;

(8) THE EXTENT TO WHICH THE CURRENT VIOLATION IS PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION; AND

(9) THE EXTENT TO WHICH THE EXISTENCE OF THE VIOLATION WAS KNOWN TO THE EMPLOYER BUT REMAINED NOT CORRECTED.

SECTION 2. AND BE IT FURTHER ENACTED, That if legislation is enacted by the United States Congress that would reduce either the maximum or minimum penalties in the provisions of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et. seq.) as amended, then this Act shall be applicable only to the extent necessary to maintain the same corresponding maximum or minimum penalty allowed under the Maryland Occupational Safety and Health Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed only prospectively and shall apply only for cases arising from inspections commenced on or after the effective date of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect January 1, 1992.

Approved May 24, 1991.