

UNLESS THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER GIVES WRITTEN APPROVAL, A PERSON MAY NOT GIVE ADVANCE NOTICE OF AN INSPECTION TO BE MADE UNDER THIS TITLE.

(B) CRIMINAL PENALTY.

A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, §§ 35(f) and 41(b).

In subsection (b) of this section, the reference to being "guilty of a misdemeanor" is added to state expressly that which only was implied by the references, in former Art. 89, § 41(c), to a "conviction". Since violation of former § 35(f) was not a felony at common law and has not been declared a felony by statute, it is considered to be a misdemeanor. See State v. Canova, 278 Md. 483, 490 (1976), and Dutton v. State, 123 Md. 373, 378 (1914).

Defined terms: "Commissioner" § 5-101

"Person" §§ 1-101 and 5-101

5-806. WILLFUL VIOLATION CAUSING DEATH.

IF AN EMPLOYER WILLFULLY VIOLATES ANY PROVISION OF THIS TITLE, AN ORDER PASSED UNDER THIS TITLE, OR A REGULATION ADOPTED TO CARRY OUT THIS TITLE AND THE VIOLATION CAUSED DEATH TO AN EMPLOYEE, ON CONVICTION THE EMPLOYER IS SUBJECT TO:

(1) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH; OR

(2) FOR A SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING \$20,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 89, § 41(a).

The Labor and Employment Article Review Committee notes, for consideration by the General Assembly, that the introductory language of this section refers to a "conviction" but does not state expressly whether the violation is a felony or misdemeanor. Absent an express statement, case law indicates that the violation is considered to be a misdemeanor. See State v. Canova, 278 Md. 483, 490 (1976), and Dutton v. State, 123 Md. 373, 378 (1914). However, the Committee did not add an express reference to a