

“misdemeanor” in this section, since that might be interpreted as a limitation on liability under a criminal felony statute for willful behavior causing death. Compare § 5-804 of this subtitle and § 7-507 of this article.

Defined terms: “Employee” § 5-101

“Employer” § 5-101

“Occupational safety and health standard” § 5-101

5-807. RESERVED.

5-808. RESERVED.

PART III. CIVIL PENALTIES.

5-809. ASSESSMENT OF PENALTY.

(A) REQUIRED FOR SERIOUS VIOLATION.

(1) FOR THE PURPOSE OF THIS SUBSECTION, A VIOLATION IS CONSIDERED TO BE A SERIOUS VIOLATION IF THERE IS A SUBSTANTIAL PROBABILITY THAT DEATH OR SERIOUS PHYSICAL HARM COULD RESULT FROM A CONDITION THAT EXISTS OR A PRACTICE, MEANS, METHOD, OPERATION, OR PROCESS THAT HAS BEEN ADOPTED OR IS IN USE, UNLESS THE EMPLOYER DID NOT AND WITH THE EXERCISE OF REASONABLE DILIGENCE COULD NOT KNOW OF THE VIOLATION.

(2) THE COMMISSIONER SHALL ASSESS A CIVIL PENALTY AGAINST AN EMPLOYER WHO RECEIVES A CITATION FOR A SERIOUS VIOLATION OF THIS TITLE, AN ORDER PASSED UNDER THIS TITLE, OR A REGULATION ADOPTED TO CARRY OUT THIS TITLE.

(B) REQUIRED FOR POSTING VIOLATIONS.

THE COMMISSIONER SHALL ASSESS A CIVIL PENALTY AGAINST AN EMPLOYER WHO VIOLATES A REQUIREMENT FOR POSTING IMPOSED UNDER THIS TITLE.

(C) ALLOWED FOR OTHER VIOLATIONS.

THE COMMISSIONER MAY ASSESS A CIVIL PENALTY AGAINST AN EMPLOYER WHO:

(1) WILLFULLY OR REPEATEDLY VIOLATES THIS TITLE, AN ORDER PASSED UNDER THIS TITLE, OR A REGULATION ADOPTED TO CARRY OUT THIS TITLE; OR

(2) RECEIVES A CITATION FOR A VIOLATION OF A PROVISION OF THIS TITLE, AN ORDER PASSED UNDER THIS TITLE, OR A REGULATION ADOPTED TO CARRY OUT THIS TITLE AND THERE IS A SPECIFIC DETERMINATION THAT THE VIOLATION IS NOT OF A SERIOUS NATURE.

(D) ALLOWED FOR FAILURE TO CORRECT VIOLATION.