

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 100, § 80E(g)(1) and (2).

Subsection (a)(1) of this section is revised in the active voice to clarify that it is the Commissioner who assesses a civil penalty and, thus, to conform to subsection (c) of this section.

Subsection (c) of this section is revised to make consideration of the enumerated factors a duty. See County Council for Montgomery County v. Investors Funding Corp., 270 Md. 403 (1973). However, the Labor and Employment Article Review Committee notes, for consideration by the General Assembly, that, while former Art. 100, § 80E(g) allowed imposition of civil penalties against "[a]ny person", the criteria for penalties applied only to agricultural operations and farm labor contractors. Therefore, there are no statutory criteria for assessment of a civil penalty against any other person.

The Committee also notes that subsection (c)(2)(ii) of this section requires the Commissioner to consider the "gravity" of a violation if the violation is committed by a farm labor contractor but "gravity" need not be considered if the violation is committed by an agricultural operation. The General Assembly may wish to require that gravity be considered in setting a civil penalty against an agricultural operation also.

As to the substitution of the term "licensing" for the former reference to "registration", see the General Revisor's Note to this title.

Defined terms: "Agricultural operation" § 7-101

"Commissioner" § 7-101

"Farm labor contractor" § 7-101

"Migrant agricultural worker" § 7-101

"Person" § 1-101 "State" § 1-101

7-507. CRIMINAL PENALTIES.

A FARM LABOR CONTRACTOR WHO WILLFULLY VIOLATES ANY PROVISION OF THIS TITLE OR ANY REGULATION ADOPTED TO CARRY OUT THIS TITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT:

(1) FOR A FIRST OFFENSE, TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH; AND

(2) FOR A SUBSEQUENT OFFENSE, TO A FINE NOT EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 100, § 80F(a).