

23-418. Penalties; violation; classification

- A. Any employer who wilfully or repeatedly violates the requirements of section 23-403 or any standard or regulation adopted pursuant to section 23-410 or 23-414 or this article may be assessed a civil penalty for each wilful violation of not more than the maximum civil penalty, but not less than the minimum civil penalty, for wilful or repeated violations adopted by the United States occupational safety and health administration pursuant to the federal civil penalties inflation adjustment act improvements act of 2015 (P.L. 114-74; 129 Stat. 599).
- B. Any employer who has received a citation for a serious violation of this article shall be assessed a civil penalty for each such violation of not more than the maximum civil penalty for serious violations adopted by the United States occupational safety and health administration pursuant to the federal civil penalties inflation adjustment act improvements act of 2015 (P.L. 114-74; 129 Stat. 599).
- C. Any employer that has received a citation for a nonserious violation of this article may be assessed a civil penalty for each such violation of not more than the maximum civil penalty for nonserious violations adopted by the United States occupational safety and health administration pursuant to the federal civil penalties inflation adjustment act improvements act of 2015 (P.L. 114-74; 129 Stat. 599).
- D. Any employer that fails to correct a violation for which a citation has been issued within the abatement period allowed for its correction, which shall be suspended in case of a review proceeding before an administrative law judge or the review board initiated by the employer in good faith and not solely for delay or avoidance of penalties, may be assessed a civil penalty of not more than the maximum civil penalty for abatement violations adopted by the United States occupational safety and health administration pursuant to the federal civil penalties inflation adjustment act improvements act of 2015 (P.L. 114-74; 129 Stat. 599) for each day during which such failure or violation continues after the abatement date.
- E. Any employer that knowingly violates the requirements of section 23-403 or any standard or regulation adopted pursuant to section 23-410 or 23-414 or this article and that violation causes death to an employee is guilty of a class 6 felony, except that if the conviction is for a second or subsequent violation the employer is guilty of a class 5 felony.
- F. Any person who knowingly gives advance notice of any inspection to be conducted under this article without authority from the director is guilty of a class 2 misdemeanor.
- G. A person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article is guilty of a class 2 misdemeanor.
- H. Any employer that violates any of the posting requirements of this article shall be assessed a civil penalty for each violation of not more than the maximum civil penalty for posting violations adopted by the United States occupational safety and health administration pursuant to the federal civil penalties inflation adjustment act improvements act of 2015 (P.L. 114-74; 129 Stat. 599).
- I. The commission shall have authority to assess all civil penalties provided in this section, giving due consideration to the appropriateness of the penalty with respect to the gravity of the violation, the number of employees employed by the employer, the good faith of the employer and the history of previous violations under this article.
- J. Civil penalties owed under this article shall be paid to the commission for deposit in the state general fund. After an order or decision on a civil penalty becomes final pursuant to section 23-417, 23-421 or 23-423, the civil penalty shall act as a judgment against the employer. The commission shall file the civil penalty in the office of the clerk of the superior court in any county in this state and the clerk shall enter the civil penalty in the civil order book and judgment docket. When the civil penalty is filed and entered it is a lien for eight years after

the date of the final order or decision on the property of the employer located in the county. Execution may issue on the civil penalty within eight years in the same manner and with like effect as a judgment of the superior court. The civil penalty judgment shall accrue interest pursuant to section 44-1201. The commission may recover reasonable attorney fees incurred pursuant to this section.