

### **453A.31 Civil penalty for certain violations.**

1. If a permit holder fails to keep any of the records required to be kept by the provisions of this division, or sells cigarettes upon which a tax is required to be paid by this division without at the time having a valid permit, or if a distributor, wholesaler, manufacturer, or distributing agent fails to make reports to the department as required, or makes a false or incomplete report to the department, or if a distributing agent stores unstamped cigarettes in the state or distributes or delivers unstamped cigarettes within this state without at the time of storage or delivery having a valid permit, or if a person purchases or is in possession of unstamped cigarettes, or if a person affected by this division fails or refuses to abide by any of its provisions or the rules adopted under this division, the person is civilly liable to the state for a penalty as follows:

*a.* For possession of unstamped cigarettes:

(1) A two hundred dollar penalty for the first violation if a person is in possession of more than forty but not more than four hundred unstamped cigarettes.

(2) A five hundred dollar penalty for the first violation if a person is in possession of more than four hundred but not more than two thousand unstamped cigarettes.

(3) A twenty-five dollar per pack penalty for the first violation if a person is in possession of more than two thousand unstamped cigarettes.

(4) For a second violation within three years of the first violation, the penalty is four hundred dollars if a person is in possession of more than forty but not more than four hundred unstamped cigarettes; one thousand dollars if a person is in possession of more than four hundred but not more than two thousand unstamped cigarettes; and thirty-five dollars per pack if a person is in possession of more than two thousand unstamped cigarettes.

(5) For a third or subsequent violation within three years of the first violation, the penalty is six hundred dollars if a person is in possession of more than forty but not more than four hundred unstamped cigarettes; one thousand five hundred dollars if a person is in possession of more than four hundred but not more than two thousand unstamped cigarettes; and forty-five dollars per pack if a person is in possession of more than two thousand unstamped cigarettes.

*b.* For all other violations of this section:

(1) A two hundred dollar penalty for the first violation.

(2) A five hundred dollar penalty for a second violation within three years of the first violation.

(3) A one thousand dollar penalty for a third or subsequent violation within three years of the first violation.

2. The penalty imposed under this section shall be assessed and collected pursuant to section 453A.28 and is in addition to the tax, penalty, and interest imposed in that section.

3. If a cigarette distributor fails to file a return or to report timely, stamps shall not be provided to that cigarette distributor until all returns and reports are filed properly and all tax, penalties, and interest are paid.

[C24, 27, 31, 35, § 1572; C39, § **1556.26**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 98.31]

C93, § 453A.31

99 Acts, ch 151, §81, 89; 2004 Acts, ch 1073, §40, 41; 2007 Acts, ch 186, §42; 2008 Acts, ch 1032, §55

