

214A.11 Penalties.

1. Except as provided in subsection 2, a person who violates a provision of this chapter is guilty of a serious misdemeanor. Each day that a continuing violation occurs shall be considered a separate offense.

2. The state may proceed against a person who violates this chapter by initiating an alternative civil enforcement action in lieu of a prosecution. The alternative civil enforcement action may be brought against the person as a contested case proceeding by the department under chapter 17A or as a civil judicial proceeding by the attorney general upon referral by the department. The department may impose, assess, and collect the civil penalty. The civil penalty shall be for at least one hundred dollars but not more than one thousand dollars for each violation. Each day that a continuing violation occurs shall be considered a separate offense.

a. Except as provided in paragraph "b", the state is precluded from prosecuting a violation pursuant to subsection 1 if the state is a party in the alternative civil enforcement action, the department has made a final decision in the contested case proceeding, or a court has entered a final judgment.

b. If a party to an alternative civil enforcement action fails to pay the civil penalty to the department within thirty days after the party has exhausted the party's administrative remedies and the party has not sought judicial review in accordance with section 17A.19, the department may order that its final decision be vacated. When the department's final decision is vacated, the state may initiate a criminal prosecution, but shall be precluded from bringing an alternative civil enforcement action. If a party to an alternative civil enforcement action fails to pay the civil penalty within thirty days after a court has entered a final judgment, the department may request that the attorney general petition the court to vacate its final judgment. When the court's judgment has been vacated, the state may initiate a criminal prosecution, but shall be precluded from bringing an alternative civil enforcement action.

[C31, 35, §5093-d11; C39, §5095.11; C46, 50, 54, 58, 62, 66, 71, §323.11; C73, 75, 77, 79, 81, §214A.11]

2006 Acts, ch 1142, §14