

101B.8 Penalties — enforcement.

1. A manufacturer, wholesaler, agent, or other person who knowingly sells cigarettes at wholesale in violation of section 101B.3 is subject to the following:

a. For a first offense, a civil penalty not to exceed five thousand dollars for each sale of the cigarettes.

b. For each subsequent offense, a civil penalty not to exceed ten thousand dollars for each sale of the cigarettes, provided that the total penalty assessed against any such person shall not exceed fifty thousand dollars in any thirty-day period.

2. A retailer who knowingly sells cigarettes in violation of section 101B.3, is subject to the following:

a. For a first offense, a civil penalty not to exceed five hundred dollars for each sale or offer for sale of the cigarettes, and for each subsequent offense a civil penalty not to exceed two thousand dollars for each sale or offer for sale of the cigarettes, provided that the total number of cigarettes sold or offered for sale in such sale does not exceed one thousand cigarettes.

b. For a first offense, a civil penalty not to exceed one thousand dollars for each sale or offer for sale of the cigarettes, and for each subsequent offense a civil penalty not to exceed five thousand dollars for each sale or offer for sale of the cigarettes, provided that the total number of cigarettes sold or offered for sale in such sale exceeds one thousand cigarettes, and provided that the penalty against the retailer does not exceed twenty-five thousand dollars in any thirty-day period.

3. A manufacturer who fails to maintain test reports or who fails to make copies of the reports available to the department or the office of the attorney general within sixty days of receiving a written request pursuant to section 101B.4, is subject to a civil penalty not to exceed ten thousand dollars for each day beyond the sixtieth day that the manufacturer fails to provide the test reports.

4. In addition to any penalty prescribed by law, any corporation, partnership, sole proprietorship, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to section 101B.5 is subject to the following:

a. For a first offense, a civil penalty of at least twenty-five thousand dollars.

b. For a second or subsequent offense, a civil penalty not to exceed one hundred thousand dollars for each false certification.

5. Any person violating any other provision of this chapter is subject to the following:

a. For a first offense, a civil penalty not to exceed one thousand dollars.

b. For a second or subsequent offense, a civil penalty not to exceed five thousand dollars for each violation.

6. Any cigarettes that have been sold or offered for sale that do not comply with the performance standard required pursuant to section 101B.4 shall be subject to forfeiture. However, prior to the destruction of any cigarettes forfeited, the holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarettes.

7. In addition to any other remedy provided by law, the department of public safety or the office of the attorney general may file an action in district court for a violation of this chapter, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation of this chapter, including enforcement costs relating to the specific violation and attorney fees. Each violation of the chapter or of rules adopted under this chapter constitutes a separate civil violation for which the department of public safety or the office of the attorney general may seek relief.

8. The department of revenue in the regular course of conducting inspections of a wholesaler, agent, or retailer may inspect cigarettes in the possession or control of the wholesaler, agent, or retailer or on the premises of any wholesaler, agent, or retailer to determine if the cigarettes are marked as required pursuant to section 101B.7. If the cigarettes are not marked as required, the department of revenue shall notify the department of public safety.

9. To enforce the provisions of this chapter, the department of public safety and the office of the attorney general may examine the books, papers, invoices, and other records of any

person in possession, control, or occupancy of any premises where cigarettes are placed, sold, or offered for sale, including the stock of cigarettes on the premises.
2007 Acts, ch 166, §8