

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](#)

Referred to in [§453A.11](#), [§453A.46](#), [§453D.5](#)