

101.26 Penalties — burden of proof.

1. A person who violates [this subchapter](#) or a rule adopted or order issued pursuant to [this subchapter](#) is subject to a civil penalty not to exceed one hundred dollars for each day during which the violation continues, up to a maximum of one thousand dollars; however, if the tank is registered within thirty days after the director issues a cease and desist order pursuant to [section 101.25, subsection 1](#), the civil penalty under [this section](#) shall not accrue. The civil penalty is an alternative to a criminal penalty provided under [this subchapter](#).

2. A person who knowingly fails to notify or makes a false statement, representation, or certification in a record, report, or other document filed or required to be maintained under [this subchapter](#), or violates an order issued under [this subchapter](#), is guilty of an aggravated misdemeanor.

3. The attorney general, at the request of the director, shall institute any legal proceedings, including an action for an injunction, necessary to enforce the penalty provisions of [this subchapter](#) or to obtain compliance with the provisions of [this subchapter](#) or rules adopted or order pursuant to [this subchapter](#). In any action, previous findings of fact of the director after notice and hearing are conclusive if supported by substantial evidence in the record when the record is viewed as a whole.

4. In all proceedings with respect to an alleged violation of [this subchapter](#) or a rule adopted or order issued by the director pursuant to [this subchapter](#), the burden of proof is upon the director.

5. If the attorney general has instituted legal proceedings in accordance with [this section](#), all related issues which could otherwise be raised by the alleged violator in a proceeding for judicial review under [section 101.27](#) shall be raised in the legal proceedings instituted in accordance with [this section](#).

[89 Acts, ch 131, §9; 2016 Acts, ch 1011, §121; 2017 Acts, ch 29, §37; 2023 Acts, ch 19, §1538](#)

Referred to in [§101.25, 101.27](#)

Section amended