

875—32.11(92) Civil penalty calculation. An employer who violates this chapter or Iowa Code chapter 92 is subject to a civil penalty of not more than \$10,000 per violation as set forth in this rule.

32.11(1) *Counting the number of violations.*

a. Each day that a child works too many hours, works at a prohibited time, or works in a prohibited occupation is a separate violation.

b. The director may waive or reduce the penalty if this method of counting the violations would result in a penalty that is disproportionate to the harm done to the minor(s), the size of the employer, or both.

32.11(2) *Determining whether a violation is a repeat violation.* The higher penalty amounts outlined in subrules 32.11(4) and 32.11(5) for repeat instances may be assessed by the director if citations regarding the earlier instance or instances are final action and occurred less than five years before.

32.11(3) *Reserved.*

32.11(4) *Hours violations.* If a child is killed while working at a prohibited time or for excessive hours, the civil penalty is \$10,000 for each instance. For other time or hour violations, the penalties set forth in this subrule are applied.

a. The civil penalties for working less than 15 minutes before or after an allowed time are as set forth in the following schedule:

<u>Instance</u>	<u>Penalty</u>
First	Warning letter
Second	\$100 civil penalty
Third	\$200 civil penalty
Fourth	\$500 civil penalty
Fifth	\$1,000 civil penalty
Each additional instance	\$2,500 civil penalty

b. For any time or hours violation not described elsewhere in this subrule, the following civil penalty schedule applies:

<u>Instance</u>	<u>Penalty</u>
First	\$100 civil penalty
Second	\$250 civil penalty
Third	\$500 civil penalty
Fourth	\$1,000 civil penalty
Each additional instance	\$2,500 civil penalty

32.11(5) *Occupation violations.*

a. If no serious illness or injury results from the work, the civil penalties for allowing or permitting a child to perform prohibited work are as set forth in the following schedule:

<u>Instance</u>	<u>Penalty</u>
First	\$500 civil penalty
Second	\$1,500 civil penalty
Third	\$2,500 civil penalty
Fourth	5,000 civil penalty
Fifth	\$7,500 civil penalty
Each additional instance	\$10,000 civil penalty

b. If a nonfatal but serious illness or injury results from the work, the civil penalties for allowing or permitting a child to perform prohibited work are as set forth in the following schedule:

<u>Instance</u>	<u>Penalty</u>
First	\$2,500 civil penalty
Second	\$5,000 civil penalty
Each additional instance	\$10,000 civil penalty

c. If a fatality results from the work, the civil penalty for allowing or permitting a child to perform prohibited work is \$10,000 for each instance.

32.11(6) *Penalty reduction factors.* Except for violations related to the death of a child while working, the director shall reduce the penalty calculated pursuant to subrules 32.11(1), 32.11(2), 32.11(4) and 32.11(5) by the appropriate penalty reduction percentages set forth in this subrule. However, if the director requests information relevant to the penalty assessment and the employer does not provide responsive information, the director will not reduce the penalty.

a. *Penalty reduction for size of business.* The director shall reduce a penalty as follows:

- (1) Thirty-five percent if the employer has 25 or fewer employees.
- (2) Fifteen percent if the employer has 26 to 100 employees.
- (3) Five percent if the employer has 101 to 250 employees.

b. *Penalty reduction for good faith.* The director may reduce a penalty by 15 percent based upon evidence that the employer made a good faith attempt to comply with the requirements. If at any time the director warned an employer in writing about a prohibited practice and a civil penalty is being assessed against the same employer for repeating the practice, the director shall not reduce the penalty based on good faith.

c. *Penalty reduction for history.* The director shall reduce a penalty by 10 percent if the director has not assessed a civil penalty under this chapter within the past five years.

This rule is intended to implement Iowa Code section 92.22.

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