

§ 113-410. Penalties for other violations.

(a) Any person who fails to secure a permit prior to drilling a well or using hydraulic fracturing treatments, or who knowingly and willfully violates any provision of this Article, or any rule or order of the Commission or the Department made hereunder, shall, in the event a penalty for such violation is not otherwise provided for herein, be subject to a penalty of not to exceed twenty-five thousand dollars (\$25,000) a day for each and every day of such violation, and for each and every act of violation, such penalty to be recovered in a suit in the superior court of the county where the defendant resides, or in the county of the residence of any defendant if there be more than one defendant, or in the superior court of the county where the violation took place. The place of suit shall be selected by the Department, and such suit, by direction of the Department, shall be instituted and conducted in the name of the Department by the Attorney General. The payment of any penalty as provided for herein shall not have the effect of changing illegal oil into legal oil, illegal gas into legal gas, or illegal product into legal product, nor shall such payment have the effect of authorizing the sale or purchase or acquisition, or the transportation, refining, processing, or handling in any other way, of such illegal oil, illegal gas or illegal product, but, to the contrary, penalty shall be imposed for each prohibited transaction relating to such illegal oil, illegal gas or illegal product.

(b) Any person knowingly and willfully aiding or abetting any other person in the violation of any statute of this State relating to the conservation of oil or gas, or the violation of any provisions of this law, or any rule or order made thereunder, shall be subject to the same penalties as prescribed in subsection (a) of this section for the violation by such other person.

(c) In determining the amount of a penalty under this section, the Department shall consider all of the following factors:

- (1) The degree and extent of harm to the natural resources of the State, to the public health, or to private property resulting from the violation.
- (2) The duration and gravity of the violation.
- (3) The effect on ground or surface water quantity or quality or on air quality.
- (4) The cost of rectifying the damage.
- (5) The amount of money the violator saved by noncompliance.
- (6) Whether the violation was committed willfully or intentionally.
- (7) The prior record of the violator in complying or failing to comply with this Article or a rule adopted pursuant to this Article.
- (8) The cost to the State of the enforcement procedures.

(d) If any civil penalty has not been paid within 60 days after notice of assessment has been served on the violator or within 30 days after service of the final decision by the administrative law judge in accordance with G.S. 150B-34, a final decision by the Committee on Civil Penalty Remissions established under G.S. 143B-293.6, or a court order, whichever is later, the Secretary or the Secretary's designee shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the civil penalty.

(e) The clear proceeds of penalties provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. (1945, c. 702, s. 30; 1973, c. 1262, s. 86; 1987, c. 827, s. 122; 1998-215, s. 50; 2012-143, s. 2(f).)