

3701-52-09

Civil fines and penalties.

(A) Pursuant to section 3794.07 of the Revised Code, as it pertains to proprietors, the amount of a fine for a violation of division (A) or (B) of section 3794.02 or section 3794.06 of the Revised Code or rule 3701-52-02 or 3701-52-06 of the Administrative Code shall be determined in accordance with the following schedule:

- (1) First violation - warning letter;
- (2) Second violation - one hundred dollars;
- (3) Third violation - five hundred dollars;
- (4) Fourth violation - one thousand dollars; and,
- (5) Fifth or subsequent violation - two thousand five hundred dollars.

(B) Pursuant to section 3794.07 of the Revised Code, as it pertains to individuals, who have violated division (D) of section 3794.02 of the Revised Code or rule 3701-52-03 of the Administrative Code shall be fined in accordance with the following schedule:

- (1) First violation - warning letter; and,
- (2) Second or subsequent violation - one hundred dollars.

(C) Pursuant to section 3794.07 of the Revised Code and as it pertains to retaliation, the amount of a fine for violation of division (C) of section 3794.02 of the Revised Code or rule 3701-52-02 or 3701-52-03 of the Administrative Code shall be determined in accordance with the following schedule:

- (1) First violation - warning letter;
- (2) Second violation - one thousand dollars; and,
- (3) Third or subsequent violation - two thousand five hundred dollars.

(D) In determining the amount of a fine for a violation as set forth in paragraphs (A) to (C) of this rule, violations which occurred more than two years prior to a subsequent violation shall not be considered if there has been no subsequent violation in the intervening time period. In determining the amount of a fine for a violation or violations, all complaints received during the pendency of an investigation shall be aggregated for purposes of issuing a finding of violation.

(E) The department may decrease or waive any fine imposed pursuant to paragraphs (A) to (C) of this rule upon consideration of any of the following factors:

- (1) Whether the proprietor made a good faith effort to prevent the violation from occurring, including efforts to comply with other applicable laws and rules such as division (A) (18) of section 3721.13 of the Revised Code;

- (2) Whether the proprietor has substantially complied with the requirements of Chapter 3794. of the Revised Code and this chapter;
 - (3) Whether the proprietor or individual has a history of compliance;
 - (4) Whether the proprietor cooperated in good faith during the investigation of the reported violation; and,
 - (5) Whether a proprietor or individual has shown good cause to support decreasing or waiving the fine.
- (F) Upon a final finding of violation, each day that specific violation continues shall constitute a separate violation. The total penalty assessment for the separate violation is calculated as the product of the number of days the proprietor or individual remained in violation after the final finding of a violation multiplied by the applicable penalty amount in paragraphs (A) to (C) of this rule. Fines imposed pursuant to this rule shall be doubled when the department finds the violation to be intentional. Violations that occurred more than two years prior to the current violation shall not be considered when determining the amount of fine pursuant to this rule for the current violation.
- (G) Upon a final finding of violation, the Ohio department of health shall invoice the proprietor or individual for the assessed fines. All fines assessed on a proprietor or individual shall be paid within thirty days of the date the Ohio department of health's invoice. All fines shall be sent to the Ohio department of health in the manner prescribed by the director of health and in the form of a cashier's check or a postal money order, payable to the "Treasurer, State of Ohio."

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CERTIFIED ELECTRONICALLY

Certification

05/09/2013

Date

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