§806. Enforcement; penalties

1. Commission orders. The commission may issue orders requiring the owner or operator of a facility or other responsible person at a facility to abate a violation of any section of this subchapter or rule adopted under it.
[PL 1989, c. 464, §3 (NEW).]

2. Civil penalties. The following penalties apply to the following violations.

A. A person who violates section 795 is subject to a civil penalty of not more than $25,000. [PL 2003, c. 452, Pt. V, §1 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who violates section 796 is subject to a civil penalty of not more than $1,000. [PL 2003, c. 452, Pt. V, §1 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. A person who violates section 797 is subject to a civil penalty of not more than $1,000. [PL 2003, c. 452, Pt. V, §1 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

D. A person who violates section 798, subsection 1 or 2 is subject to a civil penalty of not more than $25,000. [PL 2003, c. 452, Pt. V, §1 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

Civil penalties under this subsection are payable to the Emergency Response Commission Fund. These penalties are recoverable in a civil action. Minimum penalties under this subsection are $100 per day. Each day of violation constitutes a separate violation.
[PL 2003, c. 452, Pt. V, §1 (RPR); PL 2003, c. 452, Pt. X, §2 (AFF).]

3. Criminal penalties. The following penalties apply to the following violations.

A. A person who intentionally, knowingly or recklessly fails to comply with the reporting requirements of section 798, subsection 1 commits a Class C crime and, notwithstanding Title 17-A, section 1704, subsection 3 and section 1705, subsection 4, is subject to a fine of not more than $25,000. [PL 2019, c. 113, Pt. C, §113 (AMD).]

B. A person who violates paragraph A when the person has a prior conviction for violation of paragraph A commits a Class C crime and, notwithstanding Title 17-A, section 1704, subsection 3 and section 1705, subsection 4, is subject to a fine of not more than $50,000. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence. [PL 2019, c. 113, Pt. C, §113 (AMD).]
[PL 2019, c. 113, Pt. C, §113 (AMD).]

4. Authority to bring civil actions. Civil actions may be brought as follows.

A. Any person may commence a civil action on that person's own behalf against the owner or operator of a facility for failure to do any of the following:

(1) Submit a follow-up emergency notice under section 798, subsection 3;

(2) Submit a material safety data sheet or a list under section 796;

(3) Complete and submit a Maine chemical inventory report under section 797; or

(4) Complete and submit a toxic chemical release report under section 799. [PL 2009, c. 252, §8 (AMD).]

B. No action may be brought against the owner or operator of a facility if the Federal Government or the State has commenced and is diligently pursuing an administrative order, civil action or criminal action to enforce the requirement concerned or to impose a civil penalty for an alleged violation of the requirement, either under this subsection or under comparable federal law or rule. [PL 1989, c. 464, §3 (NEW).]

C. No action may be commenced under this subsection unless the plaintiff has given at least 60 days prior notice to the commission, the Attorney General and the owner or operator of the facility alleged to be in violation that the plaintiff will commence the action. [PL 1989, c. 464, §3 (NEW).]

D. Action brought against an owner or operator under this section shall be brought in Superior Court for the county in which the alleged violation occurred. [PL 1989, c. 464, §3 (NEW).]

E. Nothing in this subsection may restrict or expand any right which any person or class of persons may have under any federal or state law or common law to seek enforcement of any requirement or to seek any other relief. [PL 1989, c. 464, §3 (NEW).]

F. In any action under this subsection, the Federal Government or the State, or both, may intervene as a matter of right. [PL 1989, c. 464, §3 (NEW).]

G. In any action under this subsection, any person may intervene as a matter of right when that person has a direct interest which is or may be adversely affected by the action and the disposition of the action may, as a practical matter, impair or impede the person's ability to protect that interest unless the court determines that the person's interest is adequately represented by existing parties in the action. [PL 1989, c. 464, §3 (NEW).]

[PL 2009, c. 252, §8 (AMD).]

SECTION HISTORY

PL 1989, c. 464, §3 (NEW). PL 2003, c. 452, §§V1,2 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2009, c. 252, §8 (AMD). PL 2019, c. 113, Pt. C, §113 (AMD).

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