

§ 20-183.8B. Civil penalties against license holders and suspension or revocation of license for emissions violations.

(a) **Kinds of Violations.** – The civil penalty schedule established in this section applies to emissions self-inspectors, emissions inspection stations, and emissions inspection mechanics. The schedule categorizes emissions violations into serious (Type I), minor (Type II), and technical (Type III) violations.

A serious violation is a violation of this Part or a rule adopted to implement this Part that directly affects the emission reduction benefits of the emissions inspection program. A minor violation is a violation of this Part or a rule adopted to implement this Part that reflects negligence or carelessness in conducting an emissions inspection or complying with the emissions inspection requirements but does not directly affect the emission reduction benefits of the emissions inspection program. A technical violation is a violation that is not a serious violation, a minor violation, or another type of offense under this Part.

(b) **Penalty Schedule.** – The Division must take the following action for a violation:

(1) **Type I.** – For a first or second Type I violation by an emissions self-inspector or an emissions inspection station, assess a civil penalty of two hundred fifty dollars (\$250.00) and suspend the license of the business for 180 days. For a third or subsequent Type I violation within three years by an emissions self-inspector or an emissions inspection station, assess a civil penalty of one thousand dollars (\$1,000) and revoke the license of the business for two years.

For a first or second Type I violation by an emissions inspection mechanic, assess a civil penalty of one hundred dollars (\$100.00) and suspend the mechanic's license for 180 days. For a third or subsequent Type I violation within seven years by an emissions inspection mechanic, assess a civil penalty of two hundred fifty dollars (\$250.00) and revoke the mechanic's license for two years.

(2) **Type II.** – For a first or second Type II violation by an emissions self-inspector or an emissions inspection station, assess a civil penalty of one hundred dollars (\$100.00). For a third or subsequent Type II violation within three years by an emissions self-inspector or an emissions inspection station, assess a civil penalty of two hundred fifty dollars (\$250.00) and suspend the license of the business for 90 days.

For a first or second Type II violation by an emissions inspection mechanic, assess a civil penalty of fifty dollars (\$50.00). For a third or subsequent Type II violation within seven years by an emissions inspection mechanic, assess a civil penalty of one hundred dollars (\$100.00) and suspend the mechanic's license for 90 days.

(3) **Type III.** – For a first or second Type III violation by an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic, send a warning letter. For a third or subsequent Type III violation within three years by the same emissions license holder, assess a civil penalty of twenty-five dollars (\$25.00).

(c) **Station or Self-Inspector Responsibility.** – It is the responsibility of an emissions inspection station and an emissions self-inspector to supervise the emissions mechanics it employs. A violation by an emissions inspector mechanic is considered a violation by the station or self-inspector for whom the mechanic is employed. The Division may stay a term of suspension for a first occurrence of a Type I violation for a station if the station agrees to follow the reasonable terms and conditions of the stay as determined by the Division. In

determining whether to suspend a first occurrence violation for a station, the Division may consider the supervision provided by the station over the individual or individuals who committed the violation, action that has been taken to remedy future violations, or prior knowledge of the station as to the acts committed by the individual or individuals who committed the violation, or a combination of these factors. The monetary penalty shall not be stayed or reduced.

(c1) Multiple Violations in a Single Emissions Inspection. – If an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic commits two or more violations in the course of a single emissions inspection, the Division shall take only the action specified for the most significant violation.

(c2) Multiple Violations in Separate Emissions Inspections. – In the case of two or more violations committed in separate emissions inspections, considered at one time, the Division shall consider each violation as a separate occurrence and shall impose a separate penalty for each violation as a first, second, or third or subsequent violation as found in the applicable penalty schedule. The Division may in its discretion direct that any suspensions for the first, second, or third or subsequent violations run concurrently. If the Division does not direct that the suspensions run concurrently, they shall run consecutively. Nothing in this section shall prohibit or limit a reviewing court's ability to affirm, reverse, remand, or modify the Division's decisions, whether discretionary or otherwise, pursuant to Article 4 of Chapter 150B of the General Statutes.

(d), (d1) Repealed by Session Laws 2013-302, s. 4, effective October 1, 2013, and applicable to violations occurring on or after that date.

(e) Mechanic Training. – An emissions inspection mechanic whose license has been suspended or revoked must retake the course required under G.S. 20-183.4A and successfully complete the course before the mechanic's license can be reinstated. Failure to successfully complete this course continues the period of suspension or revocation until the course is completed successfully. (1993 (Reg. Sess., 1994), c. 754, s. 1; 1997-29, s. 6; 2001-504, s. 14; 2013-302, s. 4.)