



Ohio Administrative Code Rule 3701-52-10 Civil fines and penalties.

Effective: November 16, 2023

(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 3701-52-07 of the Administrative Code will 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 will 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 will 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 will 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 will 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 will 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 will be doubled when the department finds the violation to be intentional. Violations which occurred more than two years prior to the current violation will not be considered if there has been no subsequent violation in the intervening time period 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 will invoice the proprietor or individual for the assessed fines. The proprietor or individual will pay all fines as follows:

(1) Within thirty days of the Ohio department of health's invoice:

(a) Pay all fines assessed; or

(b) At the sole discretion of the director, enter into a payment plan agreement with the department to pay the total assessed fines within a period of no longer than twelve months. Failure of a proprietor or individual to make timely payments in accordance with an agreed upon payment plan will result in the following:

(i) Cancellation of the payment plan; and

(ii) Forwarding of the remaining balance to the Ohio attorney general for collections.

(2) All fines will be sent to the Ohio department of health in the manner prescribed by the director of health and in the form of an online payment outlined on the invoice, a cashier's check, or a postal money order, payable to the "Treasurer, State of Ohio."

(H) At any time, if it is determined that a retail tobacco store or retail vapor store has submitted false information as part of the exemption affidavit process, the retail tobacco store's or retail vapor store's exemption will be revoked and any current exemption document are to be returned to the Ohio department of health or its designee, and the store is not allowed to file for another exemption for a period of at least one year.