

STATE OF NEW YORK

8213

2023-2024 Regular Sessions

IN ASSEMBLY

October 27, 2023

Introduced by M. of A. KELLES -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law and the state finance law, in relation to the disposition of certain fees and penalties

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions 1 and 2 of section 71-0211 of the environmental conservation law, subdivision 1 as amended by chapter 60 of the laws of 1993, subdivision 2 as amended by chapter 460 of the laws of 1991, are amended to read as follows:

1. Notwithstanding any other provisions of law to the contrary, all fines and penalties collected pursuant to title nineteen of this article, except amounts required to be paid into the conservation fund pursuant to subdivision two of section 71-1929 of such title; title twenty-one of this article; title twenty-seven of this article, except amounts required to be paid into the hazardous waste remedial fund pursuant to subdivision two of section 71-2725 of such title; and title forty-one of this article shall be paid into the ~~[general fund to the credit of the state purposes account]~~ conservation fund to the credit of the conservation enforcement account established pursuant to subdivision (k) of section eighty-three of the state finance law.

2. Unless otherwise provided in this chapter, not later than the tenth day of each month, all fines, penalties and forfeitures collected for violations of this chapter or rules, regulations, local laws or ordinances adopted thereunder under judgment of any town or village court, shall be paid over by such court to the comptroller of the state, with a statement accompanying the same, setting forth the action or proceeding in which such moneys were collected, the name and residence of the defendant, the nature of the offense, and the fines and penalty imposed. The comptroller shall pay these funds into the ~~[general fund of the state]~~ conservation fund to the credit of the conservation enforcement

EXPLANATION--Matter in italics (underscored) is new; matter in brackets ~~[-]~~ is old law to be omitted.

LBD11358-01-3

1 account established pursuant to subdivision (k) of section eighty-three
2 of the state finance law.

3 § 2. Section 83 of the state finance law is amended by adding a new
4 subdivision (k) to read as follows:

5 (k) All moneys, revenue, and interest thereon received and collected
6 pursuant to titles nineteen, twenty-one and twenty-seven of article
7 seventy-one of the environmental conservation law, and pursuant to
8 section 71-0211 of the environmental conservation law, other than those
9 amounts prescribed by law to be directed into other funds, shall be
10 deposited in a special account within the conservation fund to be known
11 as the conservation enforcement account. All of such moneys, revenues
12 and interest shall be available to the department of environmental
13 conservation, pursuant to appropriation, exclusively for funding the
14 enforcement of the environmental conservation laws, including funding
15 for scientists, environmental law enforcement officers, attorneys,
16 administrative support, and anything else the commissioner deems a
17 necessity for enforcement of such laws. Such money shall be used to
18 supplement and not supplant any current funding currently used for the
19 enforcement of the environmental conservation law.

20 § 3. Subdivision 1 of section 71-0213 of the environmental conserva-
21 tion law, as added by section 1 of part DDD of chapter 59 of the laws of
22 2009, is amended to read as follows:

23 1. Whenever proceedings result in a conviction for an offense under
24 this chapter there shall be levied, in addition to any sentence required
25 or permitted by law, the following mandatory surcharges: (a) in the
26 amount of twenty-five dollars for violations of sportfishing regulations
27 set forth in 6 NYCRR 10; (b) in the amount of [~~seventy-five dollars~~] one
28 hundred twelve dollars and fifty cents for all other offenses under this
29 chapter provided, however, that convictions for offenses under articles
30 seventeen, nineteen or twenty-seven of this chapter shall be subject to
31 a mandatory surcharge equal to the greater of [~~seventy-five dollars~~] one
32 hundred twelve dollars and fifty cents or [~~six~~] nine percent of any
33 penalty or fine imposed. The mandatory surcharge shall be paid to the
34 clerk of the court who shall remit such mandatory surcharge to the state
35 comptroller provided, however, that in cases where the conviction was
36 rendered by a town or a village justice court, the clerk of such court
37 shall pay twenty-five dollars of such surcharge to the chief fiscal
38 officer of the town or village in the case of surcharges resulting from
39 paragraph (b) of this subdivision and ten dollars in the case of
40 surcharges resulting from paragraph (a) of this subdivision and shall
41 pay the remaining amounts of such mandatory surcharges to the state
42 comptroller in the same manner as provided in section 71-0211 of this
43 article. The comptroller shall pay such monies into the state treasury
44 to the [~~credit of the general fund~~] conservation fund to the credit of
45 the conservation enforcement account established pursuant to subdivision
46 (k) of section eighty-three of the state finance law.

47 § 4. Section 71-0301 of the environmental conservation law, as amended
48 by chapter 400 of the law of 1973, is amended to read as follows:

49 § 71-0301. Summary abatement.

50 Notwithstanding any inconsistent provisions of law, whenever the
51 commissioner finds, after investigation, that any person is causing,
52 engaging in or maintaining a condition or activity which, in his judg-
53 ment, presents an imminent danger to the health or welfare of the people
54 of the state or results in or is likely to result in irreversible or
55 irreparable damage to natural resources, and relates to the prevention
56 and abatement powers of the commissioner and it therefore appears to be

1 prejudicial to the interests of the people of the state to delay action
2 until an opportunity for a hearing can be provided, the commissioner
3 may, without prior hearing, order such person by notice, in writing
4 wherever practicable or in such other form as in the commissioner's
5 judgment will reasonably notify such person whose practices are intended
6 to be proscribed, to discontinue, abate or alleviate such condition or
7 activity, and thereupon such person shall immediately discontinue, abate
8 or alleviate such condition or activity. As promptly as possible there-
9 after, not to exceed fifteen days, the commissioner shall provide the
10 person an opportunity to be heard and to present proof that such condi-
11 tion or activity does not violate the provisions of this section. The
12 commissioner shall adopt any other appropriate rules and regulations
13 prescribing the procedure to be followed in the issuance of such orders.
14 Any person who violates any of the provisions of, or who fails to
15 perform any duty imposed by this section, or any rule, regulation or
16 order promulgated by the commissioner hereunder, shall be liable to a
17 civil penalty of not more than [~~twenty-five hundred~~] three thousand
18 seven hundred fifty dollars for each such violation and an additional
19 penalty of not more than [~~five~~] seven hundred fifty dollars for each day
20 during which such violation continues, and, in addition thereto, such
21 person may be enjoined from continuing such violation. Penalties and
22 injunctive relief provided herein shall be recoverable in an action
23 brought by the attorney general at the request and in the name of the
24 commissioner.

25 § 5. Subdivisions 3 and 4 of section 71-0507 of the environmental
26 conservation law, subdivision 3 as amended by chapter 400 of the laws of
27 1973, are amended to read as follows:

28 3. Moneys received by a town justice or a village justice in any
29 action for a penalty brought under the provisions of this chapter listed
30 in section 71-0501 of titles 5 through 15 inclusive and title 33 or upon
31 the settlement or compromise thereof, or a fine for a violation of the
32 provisions of this chapter listed in section 71-0501 and titles 5
33 through 15 inclusive and title 33 of this article shall be paid to the
34 State Comptroller as provided in section 27 of the Town Law and section
35 4-410 of the village law. From the moneys so received, the State Comp-
36 troller shall pay all lawful fees for services rendered in such actions
37 when instituted by order of the department or upon information of a
38 conservation officer, regional and assistant regional conservation offi-
39 cer, special game protector, district ranger, forest ranger, or member
40 of the state police. The balance of such moneys arising from penalties
41 under articles 11 or 13 or title 9 of this article or upon the settle-
42 ment or compromise thereof or from fines for violations of any of the
43 provisions of articles 11 or 13 or title 9 of this article after the
44 payment of lawful fees shall be credited by the Comptroller to the
45 conservation fund. The Comptroller shall adjust and settle his account
46 with the conservation fund in the manner provided by section 99-a of the
47 State Finance Law. The balance of all other such moneys after payment of
48 lawful fees shall be credited by the Comptroller to the [~~general fund~~]
49 conservation fund to the credit of the conservation enforcement account
50 established pursuant to subdivision (k) of section eighty-three of the
51 state finance law.

52 4. All moneys received by any other person or court in an action for a
53 penalty brought under the provisions of this chapter listed in section
54 71-0501 and titles 5 through 15 inclusive and title 33 of this article
55 or upon the settlement or compromise thereof, or a fine for a violation
56 of the provisions of this chapter listed in section 71-0501 and titles 5

through 15 inclusive and title 33 of this article, shall be paid by such person or court to the department within thirty days after receipt thereof. The department shall pay the expenses of collection and the lawful fees of magistrates and constables for services performed in criminal actions brought upon information of a conservation officer, regional and assistant regional conservation officer, special game protector, district ranger, forest ranger, or member of the state police. Such moneys derived from fines or penalties for violations of articles 11 or 13 or title 9 of this article or from the settlement or compromise thereof shall be paid by the department to the Commissioner of Taxation and Finance and credited to the conservation fund. All other moneys so received by the department shall be paid to the Commissioner of Taxation and Finance and credited to the ~~[general fund]~~ conservation fund to the credit of the conservation enforcement account established pursuant to subdivision (k) of section eighty-three of the state finance law.

§ 6. Subdivisions 1, 2, 6, 9 and 10 of section 71-0703 of the environmental conservation law, subdivisions 1, 2 and 6 as amended by chapter 602 of the laws of 2003, subdivision 9 as added by chapter 267 of the laws of 2012 and subdivision 10 as added by chapter 330 of the laws of 2014, are amended to read as follows:

1. Except as otherwise provided in subdivision 4, 5, 6 or 7 of this section, any person who violates any provision of article 9 or the rules, regulations or orders promulgated pursuant thereto or the terms of any permit issued thereunder, or who fails to perform any duty imposed by any provision thereof shall be guilty of a violation, and, upon conviction, shall be punished by a fine of not more than ~~[two hundred fifty]~~ three hundred seventy-five dollars, or by imprisonment for not more than fifteen days, or by both such fine and imprisonment, and in addition thereto shall be liable to a civil penalty of not less than ten nor more than one hundred fifty dollars.

2. The violation of any of the provisions of the following sections shall subject the person guilty thereof to the following civil penalties in addition to the liability prescribed in subdivision 1 of this section:

a. Section 9-1113 of this chapter, ~~[two]~~ three dollars per tree;

b. Subdivision 3 of section 9-1105 of this chapter, ~~[twenty-five]~~ thirty-seven dollars and fifty cents per day;

c. Subdivision 4 of section 9-1105 of this chapter, and subdivision 1 of section 9-1117 of this chapter, ~~[ten]~~ fifteen dollars per mile per day;

d. Section 9-1115 of this chapter, ~~[ten]~~ fifteen dollars per mile;

e. Subdivision 2 of section 9-1117 of this chapter, one hundred fifty dollars per each offense; and

f. Section 9-1119 of this chapter, one hundred fifty dollars per day per locomotive.

With respect to the penalty for violation of subdivision 4 of section 9-1105 of this chapter, the owner and every person engaged in such cutting shall be liable therefor; however, the liability for penalty shall not arise until the expiration of twenty days after service, personally or by mail upon the alleged violator at his last known place of residence of a written notice of failure to comply with the requirements of subdivision 4 of section 9-1105 of this chapter.

6. (a) In addition to any other penalty provided by law, any person who violates subdivision 1 of section 9-0303 of this chapter shall be liable to a civil penalty of ~~[two hundred fifty]~~ three hundred seventy-five dollars per tree or treble damages, based on the stumpage value of

1 such tree or both. Where the order or decision finds that the defendant
2 established by clear and convincing evidence, that when such defendant
3 committed the violation, he or she had cause to believe that the land
4 was his or her own, or that he or she had an easement or right of way
5 across such land which permitted such action, damages shall be awarded
6 on the basis of the stumpage value of such tree or trees in the market
7 as if they were privately owned. Notwithstanding the foregoing, this
8 section shall not be construed to authorize the cutting of timber or
9 removal of trees where such action would otherwise be violative of any
10 provision of the state constitution or law.

11 (b) In addition to any other penalty provided by law, a person who
12 violates section 9-1501 of this chapter shall be liable for a civil
13 penalty of [~~two hundred fifty~~] three hundred seventy-five dollars per
14 tree or treble damages or both, based on the stumpage value of such tree
15 or trees. Where the order or decision finds that the defendant estab-
16 lished by clear and convincing evidence, that when such defendant
17 committed the violation, he or she had cause to believe that the land
18 was his or her own or that he or she had an easement or right of way
19 across such land which permitted such action, damages shall be awarded
20 on the basis of the stumpage value of such tree or trees. Notwithstand-
21 ing the foregoing, this section shall not be construed to authorize the
22 cutting of timber or removal of trees where such action would otherwise
23 be violative of any provision of the state constitution or law.

24 (c) For purposes of this subdivision, "stumpage value" shall mean the
25 current fair market value of a tree as it stands prior to the time of
26 sale, cutting, or removal. Stumpage value shall be determined by one or
27 more of the following methods: the sale price of the tree in an arm's-
28 length sale, a review of solicited bids, the stumpage price report
29 prepared by the department of environmental conservation, comparison
30 with like sales on trees on state or private lands, or other appropriate
31 means to assure that a fair market value is established within an
32 acceptable range based on the appropriate geographic area.

33 9. a. Any person who transports, sells, imports or introduces invasive
34 species, in violation of the regulations promulgated pursuant to section
35 9-1709 of this chapter shall be subject to the following:

36 For any first violation in lieu of a penalty there may be issued a
37 written warning by the department and there may also be issued education
38 materials at the discretion of the department regarding requirements
39 related to invasive species. Such person shall, however, for any subse-
40 quent violation thereafter be subject to a fine of no less than [~~two~~
41 ~~hundred fifty~~] three hundred seventy-five dollars.

42 b. Any nursery grower licensed pursuant to article fourteen of the
43 agriculture and markets law, any person who owns or operates a public
44 vessel as such term is defined in paragraph (a) of subdivision six of
45 section two of the navigation law, or any person who owns or operates a
46 commercial fishing vessel who transports, sells, imports or introduces
47 invasive species in violation of the regulations promulgated pursuant to
48 section 9-1709 of this chapter, shall be subject to a fine of not less
49 than [~~six~~] nine hundred dollars upon the first penalty. Upon the second
50 penalty such person shall be subject to a fine of not less than [~~two~~]
51 three thousand dollars. Upon a subsequent penalty and after a hearing or
52 opportunity to be heard upon due notice the following penalties may
53 apply: (i) such nursery grower may be subject to the revocation proce-
54 dures of section one hundred sixty-three-c of the agriculture and
55 markets law (ii) such person's vessel registration may be suspended or
56 (iii) such person's fishing permit may be revoked by the department.

10. Any person who violates section 9-1710 of this chapter shall be guilty of a violation and shall be punishable and liable to a civil penalty as provided in subdivision one of this section, provided, however, that for any first violation in lieu of a penalty there shall be issued a written warning by the department and there shall also be issued education materials at the discretion of the department regarding requirements related to invasive species. Such person shall be subject to a fine of up to [~~one hundred fifty~~] two hundred seventy-five dollars for a second offense, up to [~~two hundred fifty~~] three hundred seventy-five dollars for a third offense, and no less than [~~two hundred fifty~~] three hundred seventy-five dollars nor more than [~~one thousand~~] five hundred dollars for a fourth or subsequent offense.

§ 7. Section 71-0707 of the environmental conservation law is amended to read as follows:

§ 71-0707. Resisting or obstructing departmental agent or employee.

Any person who resists or obstructs an authorized agent or employee of the department while he is engaged in carrying out any provision of section 9-0305 shall be guilty of a violation which shall be punishable by a fine not exceeding one hundred fifty dollars and by an additional fine of not exceeding [~~twenty-five~~] thirty-seven dollars and fifty cents for each additional day of such resistance or obstruction.

§ 8. Section 71-0709 of the environmental conservation law, as amended by chapter 640 of the laws of 1977, is amended to read as follows:

§ 71-0709. Injury to state lands.

Any person who intentionally or negligently causes a fire which burns on or over state lands shall be liable to the state for treble damages and, in addition, to a civil penalty of [~~ten~~] fifteen dollars for every tree killed or destroyed by such fire. Damages to state lands and timber shall be ascertained and determined at the same rate of value as if such property were privately owned.

§ 9. Section 71-0711 of the environmental conservation law, as amended by chapter 640 of the laws of 1977, is amended to read as follows:

§ 71-0711. Injury to municipal or private lands.

Any person who causes a fire which burns on or over lands belonging to another person or to a municipality shall be liable to the party injured (a) for actual damages in case of fire negligently caused or (b) for the higher of actual damages or damages at the rate of [~~five~~] seven dollars and fifty cents for each tree killed or destroyed in case of fire wilfully caused.

§ 10. Section 71-1105 of the environmental conservation law, as amended by chapter 99 of the laws of 2010, is amended to read as follows:

§ 71-1105. Enforcement of subdivision 4 of section 15-0313.

Any violation of subdivision 4 of section 15-0313 shall be a violation, punishable by a fine of not more than [~~one thousand eight~~] two thousand seven hundred dollars, and in addition thereto, by a civil penalty of not more than [~~one thousand eight~~] two thousand seven hundred dollars.

§ 11. Section 71-1107 of the environmental conservation law, as amended by chapter 640 of the laws of 1977, is amended to read as follows:

§ 71-1107. Punishment for violations of title 5 of article 15.

1. A violation of section 15-0501, 15-0503 or 15-0505, shall constitute a misdemeanor, punishable by a fine of not to exceed [~~ten~~] fifteen thousand dollars, or by imprisonment not to exceed one year or by both

1 such fine and imprisonment and, in addition thereto, by a civil penalty
2 of not more than [~~five thousand~~] seven thousand five hundred dollars.

3 2. A subcontractor, employee or agent of such person or public corpo-
4 ration, or of a state department who knowingly and intentionally acts,
5 or a prime contractor of such person, public corporation or state
6 department who acts with or without an intention to violate the
7 provisions of title 5 of article 15, in disregard of specifications
8 provided in a construction contract protecting against stream damage,
9 shall be guilty of a violation punishable by a fine of not less than
10 [~~twenty-five~~] thirty-seven dollars and fifty cents, nor more than [~~two~~
11 ~~hundred-fifty~~] three hundred seventy-five dollars, or by imprisonment
12 for not more than fifteen days, or by both such fine and imprisonment,
13 and, in addition, thereto, by a civil penalty of not more than [~~five~~
14 ~~thousand~~] seven thousand five hundred dollars.

15 § 12. Section 71-1109 of the environmental conservation law, as
16 amended by chapter 364 of the laws of 1999, is amended to read as
17 follows:

18 § 71-1109. Enforcement of subdivisions 1 and 4 of section 15-0507.

19 1. Any owner violating subdivision 1 of section 15-0507 or any regu-
20 lations promulgated pursuant thereto may be liable for a penalty not to
21 exceed [~~five~~] seven hundred fifty dollars for each and every offense;
22 every violation of such subdivision shall be a separate and distinct
23 offense; and in case of a continuing violation, every day's continuance
24 thereof shall be deemed a separate and distinct offense.

25 2. Any owner violating subdivision 4 of section 15-0507 may be liable
26 for a penalty not to exceed [~~five thousand~~] seven thousand five hundred
27 dollars for each and every offense; every violation of an order referred
28 to in such subdivision shall be a separate and distinct offense; and in
29 case of a continuing violation, every day's continuance thereof shall be
30 deemed a separate and distinct offense.

31 § 13. Section 71-1111 of the environmental conservation law, as
32 amended by chapter 364 of the laws of 1999, is amended to read as
33 follows:

34 § 71-1111. Enforcement of subdivision 3 of section 15-0511.

35 Any person or local public corporation violating subdivision 3 of
36 section 15-0511 may be liable for a penalty not to exceed [~~five thou-~~
37 ~~sand~~] seven thousand five hundred dollars for each and every offense;
38 every violation of an order referred to in such subdivision shall be a
39 separate and distinct offense; and in case of a continuing violation,
40 every day's continuance thereof shall be deemed a separate and distinct
41 offense.

42 § 14. Subdivision 2 of section 71-1113 of the environmental conserva-
43 tion law, as added by chapter 356 of the laws of 1985, is amended to
44 read as follows:

45 2. Any person who violates the provisions of section 15-1506 of this
46 chapter or the rules, regulations, orders or determinations of the
47 commissioner promulgated thereto or the terms of any permit issued ther-
48 eunder, shall be liable for a civil penalty not less than [~~twenty-five~~]
49 three thousand seven hundred fifty dollars nor more than [~~ten~~] fifteen
50 thousand dollars per day of such violation.

51 § 15. Section 71-1115 of the environmental conservation law, as
52 amended by chapter 640 of the laws of 1977, is amended to read as
53 follows:

54 § 71-1115. Enforcement of section 15-1525.

55 Any person violating the provisions of section 15-1525 shall be guilty
56 of a violation punishable by a fine of not more than one thousand five

1 hundred dollars, and in addition thereto, shall be liable for a civil
2 penalty of not more than [~~fifteen hundred~~] two thousand two hundred
3 fifty dollars.

4 § 16. Subdivisions 1 and 2 of section 71-1117 of the environmental
5 conservation law, as amended by chapter 640 of the laws of 1977, is
6 amended to read as follows:

7 1. Any person or public corporation violating subdivision 1 of section
8 15-1745, shall be guilty of a violation punishable by a fine of not more
9 than [~~five thousand~~] seven thousand five hundred dollars.

10 2. In addition, the department may, in an action instituted by it in
11 any court of competent jurisdiction, recover from any such person or
12 public corporation the sum of [~~one hundred fifty~~] two hundred twenty-
13 five dollars per day for each day that such person or public corporation
14 continues to take, draw, divert or make use of any part or portion of
15 such waters.

16 § 17. Section 71-1121 of the environmental conservation law, as
17 amended by chapter 640 of the laws of 1977, is amended to read as
18 follows:

19 § 71-1121. Enforcement of subdivision 2 of section 15-1947.

20 Violation of subdivision 2 of section 15-1947 shall constitute a
21 violation, punishable by a fine of not more than one thousand five
22 hundred dollars, and in addition thereto, a civil penalty of not more
23 than [~~fifteen hundred~~] two thousand two hundred fifty dollars.

24 § 18. Section 71-1123 of the environmental conservation law, as
25 amended by chapter 640 of the laws of 1977, is amended to read as
26 follows:

27 § 71-1123. Enforcement of section 15-2133.

28 1. Any neglect of the provisions of section 15-2133 by any officer or
29 person in charge of any reservoir shall be a violation punishable by a
30 fine of not more than one thousand five hundred dollars, and in addition
31 thereto, by a civil penalty of not more than [~~fifteen hundred~~] two thou-
32 sand two hundred fifty dollars.

33 2. Any person violating the provisions of subdivision 3 of section
34 15-2133 shall be guilty of a violation punishable by a fine of not more
35 than one thousand five hundred dollars, and in addition thereto, shall
36 be liable for a civil penalty of not more than [~~fifteen hundred~~] two
37 thousand two hundred fifty dollars.

38 § 19. Section 71-1125 of the environmental conservation law, as
39 amended by chapter 640 of the laws of 1977, is amended to read as
40 follows:

41 § 71-1125. Enforcement of section 15-2315.

42 Any person who violates the provisions of the first sentence of
43 section 15-2315 shall be guilty of a violation punishable by a fine of
44 not more than one thousand five hundred dollars, and in addition there-
45 to, shall be liable for a civil penalty of not more than [~~fifteen~~
46 ~~hundred~~] two thousand two hundred fifty dollars.

47 § 20. Subdivision 1 of section 71-1127 of the environmental conserva-
48 tion law, as amended by chapter 401 of the laws of 2011, is amended to
49 read as follows:

50 1. Any person who violates any of the provisions of, or who fails to
51 perform any duty imposed by article 15 except section 15-1713, or who
52 violates or who fails to comply with any rule, regulation, determination
53 or order of the department heretofore or hereafter promulgated pursuant
54 to article 15 except section 15-1713, or any condition of a permit
55 issued pursuant to article 15 of this chapter, or any determination or
56 order of the former water resources commission or the department hereto-

fore promulgated pursuant to former article 5 of the Conservation Law, shall be liable for a civil penalty of not more than [~~two thousand five~~] three thousand seven hundred fifty dollars for such violation and an additional civil penalty of not more than [~~five~~] seven hundred fifty dollars for each day during which such violation continues, and, in addition thereto, such person may be enjoined from continuing such violation as otherwise provided in article 15 except section 15-1713.

§ 21. Section 71-1131 of the environmental conservation law, as added by chapter 640 of the laws of 1977, is amended to read as follows:

§ 71-1131. Violations; criminal liability.

Except as otherwise specifically provided, any person who violates any of the provisions of article 15 of this chapter, or any rule, regulation or order promulgated pursuant thereto, or the terms of any permit issued thereunder shall be guilty of a violation punishable by a fine of not more than [~~five~~] seven hundred fifty dollars.

§ 22. Section 71-1203 of the environmental conservation law, as added by chapter 384 of the laws of 1983, is amended to read as follows:

§ 71-1203. Penalties.

Any person who violates the provisions of article twenty-two of this chapter shall be subject to a civil penalty not to exceed [~~ten~~] fifteen thousand dollars for each day during which such violation occurred; provided, however, that the total penalty to be imposed shall not exceed one million five hundred thousand dollars.

§ 23. Subdivisions 1 and 3 of section 71-1307 of the environmental conservation law, as amended by chapter 99 of the laws of 2010, are amended to read as follows:

1. Administrative sanctions. Any person who violates any provision of article 23 of this chapter or commits any offense described in section 71-1305 of this title shall be liable to the people of the state for a civil penalty not to exceed [~~eight~~] twelve thousand dollars and an additional penalty of [~~two~~] three thousand dollars for each day during which such violation continues, to be assessed by the commissioner after a hearing or opportunity to be heard. The commissioner, acting by the attorney general, may bring suit for collection of such assessed civil penalty in any court of competent jurisdiction. Such civil penalty may be released or compromised by the commissioner before the matter has been referred to the attorney general; and where such matter has been referred to the attorney general, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the attorney general with the consent of the commissioner. In addition, the commissioner shall have the power, following a hearing conducted pursuant to rules and regulations adopted by the department, to direct the violator to cease the violation and reclaim and repair the affected site to a condition acceptable to the commissioner, to the extent possible within a reasonable time and under the direction and supervision of the commissioner. Any such order of the commissioner shall be enforceable in any action brought by the commissioner in any court of competent jurisdiction. Any civil penalty or order issued by the commissioner under this subdivision shall be reviewable in a proceeding under article seventy-eight of the civil practice law and rules.

3. Criminal sanctions. Any person who, having any of the culpable mental states defined in sections 15.05 and 20.20 of the penal law, violates any provision of article 23 of this chapter or commits any offense described in section 71-1305 of this title shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine

1 not to exceed one thousand dollars for each day during which such
2 violation continues or by imprisonment for a term of not more than one
3 year, or by both such fine and imprisonment. If the conviction is for a
4 subsequent offense committed after a first conviction of such person
5 under this subdivision, punishment shall be by a fine not to exceed
6 [~~eight~~] twelve thousand dollars for each day during which such violation
7 continues or by imprisonment for a term of not more than one year, or by
8 both such fine and imprisonment.

9 § 24. Subdivision 1 of section 71-1707 of the environmental conserva-
10 tion law is amended to read as follows:

11 1. Any person who violates, disobeys or disregards any term or
12 provision of this chapter listed in section 71-1701, or of titles 17
13 through 21 inclusive of this article or of any lawful notice, order or
14 regulation pursuant thereto for which a civil penalty is not otherwise
15 expressly prescribed by law, shall be liable to the people of the state
16 for a civil penalty of not to exceed one thousand five hundred dollars
17 for every such violation.

18 § 25. Section 71-1711 of the environmental conservation law is amended
19 to read as follows:

20 § 71-1711. Willful violation of health laws.

21 1. A person who willfully violates or refuses or omits to comply with
22 any lawful order or regulation prescribed by any local board of health
23 or local health officer, is guilty of a misdemeanor; except, however,
24 that where such order or regulation applies to a tenant with respect to
25 his own dwelling unit or to an owner occupied one or two family dwell-
26 ing, such person is guilty of an offense for the first violation punish-
27 able by a fine not to exceed [~~fifty~~] seventy-five dollars and for a
28 second or subsequent violation is guilty of a misdemeanor punishable by
29 a fine not to exceed [~~five~~] seven hundred fifty dollars or by imprison-
30 ment not to exceed six months or by both such fine and imprisonment.

31 2. A person who willfully violates any provision of this chapter list-
32 ed in section 71-1701, or of titles 17 through 21 inclusive of this
33 article, or any regulation lawfully made or established by any public
34 officer or board under authority of such provisions, the punishment for
35 violating which is not otherwise prescribed by such provisions or any
36 other law, is punishable by imprisonment not exceeding one year, or by a
37 fine not exceeding [~~two~~] three thousand dollars or by both.

38 § 26. Section 71-1725 of the environmental conservation law, as
39 amended by chapter 400 of the laws of 1973, is amended to read as
40 follows:

41 § 71-1725. Assessment of Penalties.

42 The commissioner may assess any penalty prescribed for a violation of
43 or a failure to comply with any provision contained in this title or
44 listed in section 71-1701, or any lawful notice, order or regulation
45 prescribed by the commissioner under any such provision, one thousand
46 five hundred dollars for every such violation or failure, which penalty
47 may be assessed after a hearing or an opportunity to be heard.

48 § 27. Section 71-1905 of the environmental conservation law is amended
49 to read as follows:

50 § 71-1905. Enforcement of section 17-1705.

51 Any person violating any provision of section 17-1705 shall forfeit to
52 the county where the violation occurred the sum of [~~fifty~~] seventy-five
53 dollars for every such violation.

54 § 28. Subdivision 1 of section 71-1907 of the environmental conserva-
55 tion law is amended to read as follows:

1 1. Every person violating any provision of section 17-1707 shall
2 forfeit to the municipality having a local board of health where the
3 violation occurs the sum of [~~twenty-five~~] thirty-seven dollars and fifty
4 cents for the first day when the violation takes place, and the sum of
5 [~~ten~~] fifteen dollars for every subsequent day that such violation is
6 repeated or continued.

7 § 29. Subdivision 2 of section 71-1909 of the environmental conserva-
8 tion law, as amended by section 35 of part C of chapter 62 of the laws
9 of 2003, is amended to read as follows:

10 2. Any person violating any provision of section 17-1709 shall be
11 guilty of a misdemeanor, and punishable by a fine of not more than
12 [~~seven hundred fifty~~] one thousand one hundred twenty-five dollars or by
13 imprisonment for not more than one year or by both such fine and impri-
14 sonment.

15 § 30. Section 71-1911 of the environmental conservation law, as
16 amended by section 36 of part C of chapter 62 of the laws of 2003, is
17 amended to read as follows:

18 § 71-1911. Enforcement of section 17-1711.

19 Any person violating any provision of section 17-1711 shall be guilty
20 of an offense, and punishable by a fine of not more than [~~seventy-five~~]
21 one hundred twelve dollars and fifty cents.

22 § 31. Subdivision 2 of section 71-1913 of the environmental conserva-
23 tion law is amended to read as follows:

24 2. Any person violating any provision of section 17-1713 shall be
25 guilty of a misdemeanor, and punishable by a fine of not more than
26 [~~five~~] seven hundred fifty dollars or by imprisonment for not more than
27 one year or by both such fine and imprisonment.

28 § 32. Subdivision 1 of section 71-1915 of the environmental conserva-
29 tion law is amended to read as follows:

30 1. Any person violating any provision of section 17-1715 shall be
31 guilty of a misdemeanor, and punishable by a fine of not more than
32 [~~five~~] seven hundred fifty dollars or by imprisonment for not more than
33 one year or by both such fine and imprisonment.

34 § 33. Subdivision 1 of section 71-1921 of the environmental conserva-
35 tion law is amended to read as follows:

36 1. Any person putting in or constructing or maintaining a conduit,
37 discharge pipe or other means of discharging or casting any refuse or
38 waste matter in violation of section 17-1729 shall forfeit to the people
39 of the state [~~five~~] seven dollars and fifty cents a day for each day the
40 same is used or maintained for such purpose, to be collected in an
41 action brought by the commissioner.

42 § 34. Subdivision 1 of section 71-1929 of the environmental conserva-
43 tion law, as amended by section 37 of part C of chapter 62 of the laws
44 of 2003, is amended to read as follows:

45 1. A person who violates any of the provisions of, or who fails to
46 perform any duty imposed by titles 1 through 11 inclusive and title 19
47 of article 17, or the rules, regulations, orders or determinations of
48 the commissioner promulgated thereto or the terms of any permit issued
49 thereunder, shall be liable to a penalty of not to exceed [~~thirty-seven~~
50 ~~thousand five hundred~~] fifty-six thousand two hundred fifty dollars per
51 day for each violation, and, in addition thereto, such person may be
52 enjoined from continuing such violation as hereinafter provided.
53 Violation of a permit condition shall constitute grounds for revocation
54 of such permit, which revocation may be accomplished either as provided
55 in paragraph f of subdivision 4 of section 17-0303 or by order of judg-

ment of the supreme court as an alternate or additional civil penalty in an action brought pursuant to subdivision 3 of this section.

§ 35. Subdivision 1 and subparagraphs i, ii, iii and iv of paragraph b of subdivision 8 of section 71-1933 of the environmental conservation law, subdivision 1 as amended by section 38 and subparagraphs i, ii, iii and iv of paragraph b of subdivision 8 as amended by section 39 of part C of chapter 62 of the laws of 2003, are amended to read as follows:

1. Any person who, having any of the culpable mental states defined in section 15.05 of the penal law, shall violate any of the provisions of titles 1 through 5, 9 through 11 and 19 of article 17 or the rules, regulations, orders or determinations of the commissioner promulgated thereto, or the terms of any permit issued thereunder, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than [~~three thousand seven hundred fifty~~] five thousand six hundred twenty-five dollars nor more than [~~thirty-seven thousand five hundred~~] fifty-six thousand two hundred fifty dollars per day of violation or by imprisonment for a term of not more than one year, or by both such fine and imprisonment. If the conviction is for an offense committed after a first conviction of such person under this subdivision, punishment shall be by a fine of not more than [~~seventy-five thousand~~] one hundred twelve thousand five hundred dollars per day of violation, or by imprisonment for not more than two years, or by both.

i. [~~\$750,000~~] \$1,125,000 for a class C felony committed by an organization as defined in section 71-1932 of this title;

ii. [~~\$375,000~~] \$562,500 for a class C felony;

iii. [~~\$75,000~~] \$112,500 per day of continuing violation for a class E felony defined under subdivision four of this section but in no event less than [~~\$7,500~~] \$11,250; and [~~\$15,000~~] \$22,500 for a class E felony defined under subdivision seven of this section;

iv. [~~\$37,500~~] \$56,250 per day of continuing violation for a class A misdemeanor but in no event less than [~~\$3,750~~] \$5,625.

§ 36. Paragraph b of subdivision 3 of section 71-1939 of the environmental conservation law, as added by chapter 543 of the laws of 2010, is amended to read as follows:

b. All fines and penalties collected pursuant to this subdivision shall be paid to the district or county, provided, however, that one-quarter of such fines and penalties received shall be paid to the [~~general fund to the credit of the state purposes account~~] conservation fund to the credit of the conservation enforcement account established pursuant to subdivision (k) of section eighty-three of the state finance law.

§ 37. Subdivision 1 of section 71-1941 of the environmental conservation law, as amended by section 40 of part C of chapter 62 of the laws of 2003, is amended to read as follows:

1. Except where the owner of or a person in actual or constructive possession or control of more than one thousand one hundred gallons, in bulk, of any liquid including petroleum which, if released, would or would be likely to pollute the lands or waters of the state including the groundwaters thereof can prove that the entry or presence of any part of such liquid onto such lands or into or in such waters causing or contributing to a condition therein in contravention of the standards adopted or deemed adopted by the water pollution control board or any of its legal successors was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States or New York State Government or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or

1 any combination of the foregoing clauses, such owner or person shall be
2 liable for a penalty of not more than [~~three thousand seven hundred~~
3 ~~fifty~~] five thousand six hundred twenty-five dollars for an initial
4 incident resulting in or contributing to such a contravention and for an
5 additional penalty not to exceed [~~seven hundred fifty~~] one thousand one
6 hundred twenty-five dollars for each day during which such contravention
7 or contribution thereto continues, and in addition shall be liable to
8 the people of the state of New York for the actual costs incurred by or
9 on behalf of the people of the state for the removal or neutralization
10 of such liquid and for any and all reasonable measures taken or
11 attempted to reduce, limit or diminish the extent or effect of such
12 contravention.

13 § 38. Section 71-1943 of the environmental conservation law, as
14 amended by section 41 of part C of chapter 62 of the laws of 2003, is
15 amended to read as follows:

16 § 71-1943. Enforcement of section 17-1743.

17 Any person who fails to so notify the department of such release,
18 discharge or spill into the waters of the state as described in section
19 17-1743 of this chapter shall, upon conviction, be fined not more than
20 [~~three thousand seven hundred fifty~~] five thousand six hundred twenty-
21 five dollars or imprisoned for not more than one year, or both.

22 § 39. Section 71-1945 of the environmental conservation law, as added
23 by chapter 205 of the laws of 2010, is amended to read as follows:

24 § 71-1945. Enforcement of title 21 of article 17.

25 1. Except as otherwise provided in this section, any person who
26 violates any provision of title 21 of article 17 of this chapter or any
27 rule, regulation or order issued thereunder shall be liable to the
28 people of the state for a civil penalty not to exceed [~~five~~] seven
29 hundred fifty dollars for a first violation, and not to exceed one thou-
30 sand five hundred dollars for each subsequent violation, to be assessed
31 by the commissioner after a hearing or opportunity to be heard.

32 2. Any owner or owner's agent, or occupant of a household who violates
33 any provision of title 21 of article 17 of this chapter or any rule,
34 regulation or order issued thereunder shall, for a first violation be
35 issued a written warning and be provided educational materials. Upon a
36 second violation, the owner or owner's agent, or occupant of a household
37 shall be liable to the people of the state for a civil penalty not to
38 exceed one hundred fifty dollars, and for any subsequent violations
39 shall be liable to the people of the state for a civil penalty not to
40 exceed [~~two hundred fifty~~] three hundred twenty-five dollars. No owner
41 or owner's agent of a household shall be held liable for any violation
42 by an occupant. Such penalties may be assessed by the commissioner after
43 a hearing or opportunity to be heard.

44 § 40. Subdivision 1 of section 71-2103 of the environmental conserva-
45 tion law, as amended by chapter 99 of the laws of 2010, is amended to
46 read as follows:

47 1. Except as provided in section 71-2113, any person who violates any
48 provision of article nineteen or any code, rule or regulation which was
49 promulgated pursuant thereto; or any order except an order directing
50 such person to pay a penalty by a specified date issued by the commis-
51 sioner pursuant thereto, shall be liable, in the case of a first
52 violation, for a penalty not less than [~~five~~] seven hundred fifty
53 dollars nor more than [~~eighteen~~] twenty-seven thousand dollars for said
54 violation and an additional penalty of not to exceed [~~fifteen thousand~~]
55 twenty thousand five hundred dollars for each day during which such
56 violation continues. In the case of a second or any further violation,

1 the liability shall be for a penalty not to exceed [~~twenty-six~~] thirty-
2 nine thousand dollars for said violation and an additional penalty not
3 to exceed [~~twenty-two thousand five hundred~~] thirty-three thousand seven
4 hundred fifty dollars for each day during which such violation contin-
5 ues. In addition thereto, such person may be enjoined from continuing
6 such violation as hereinafter provided.

7 § 41. Subdivision 1 of section 71-2105 of the environmental conserva-
8 tion law, as amended by chapter 99 of the laws of 2010, is amended to
9 read as follows:

10 1. Except as provided in section 71-2113, any person who shall wilful-
11 ly violate any of the provisions of article 19 or any code, rule or
12 regulation promulgated pursuant thereto or any final determination or
13 order of the commissioner made pursuant to article 19 shall be guilty of
14 a misdemeanor, and, upon conviction thereof, shall be punished by a
15 fine, in the case of a first conviction, of not less than [~~five~~] seven
16 hundred fifty dollars nor more than [~~eighteen~~] twenty-seven thousand
17 dollars or by imprisonment for a term of not more than one year, or by
18 both such fine and imprisonment, for each separate violation. If the
19 conviction is for an offense committed after the first conviction of
20 such person under this subdivision, such person shall be punished by a
21 fine not to exceed [~~twenty-six~~] thirty-nine thousand dollars, or by
22 imprisonment, or by both such fine and imprisonment. Each day on which
23 such violation occurs shall constitute a separate violation.

24 § 42. Section 71-2111 of the environmental conservation law, as added
25 by chapter 400 of the laws of 1973, is amended to read as follows:

26 § 71-2111. Enforcement of air pollution emergency rules and regulations.

27 Any person who violates any of the provisions of any regulation
28 promulgated by the commissioner under authority of paragraph y of subdi-
29 vision one of section 3-0301 shall be liable for a civil penalty of not
30 more than [~~twenty-five~~] three thousand seven hundred fifty dollars for
31 each such violation and an additional penalty of not more than [~~five~~]
32 seven hundred fifty dollars for each day during which such violation
33 continues, and, in addition thereto, such persons may be enjoined from
34 continuing such violation. Penalties and injunctive relief provided
35 herein shall be recoverable in an action brought by the attorney general
36 at the request and in the name of the commissioner.

37 § 43. Section 71-2113 of the environmental conservation law, as added
38 by chapter 942 of the laws of 1984, subdivision 1 as amended by section
39 23 and subdivision 2 as amended by section 24 of part C of chapter 62 of
40 the laws of 2003, is amended to read as follows:

41 § 71-2113. Violations of section 19-0304 of article 19 of this chapter.

42 1. Civil and administrative sanctions. Any person who violates any of
43 the provisions of, or who fails to perform any duty imposed by section
44 19-0304 of this chapter, or any rule or regulation promulgated pursuant
45 thereto, or any term or condition of any certificate or permit issued
46 pursuant thereto, or any final determination or order of the commission-
47 er made pursuant to article 19 of this chapter concerning a violation of
48 section 19-0304 of this chapter shall be liable in the case of a first
49 violation, for a civil penalty not to exceed [~~thirty-seven thousand five~~
50 hundred] fifty-six thousand two hundred fifty dollars and an additional
51 penalty of not more than [~~thirty-seven thousand five hundred~~] fifty-six
52 thousand two hundred fifty dollars for each day during which such
53 violation continues, to be assessed by the commissioner after an oppor-
54 tunity to be heard pursuant to the provisions of section 71-1709 of this
55 article, or by the court in any action or proceeding pursuant to section
56 71-2107 of this title, and, in addition thereto, such person may by

1 similar process be enjoined from continuing such violation and any
2 permit or certificate issued to such person may be revoked or suspended
3 or a pending renewal application denied. In the case of a second and any
4 further violation, the liability shall be for a civil penalty not to
5 exceed [~~seventy-five~~] one hundred twelve thousand five hundred dollars
6 for each such violation and an additional penalty not to exceed seven-
7 ty-five thousand dollars for each day during which such violation
8 continues.

9 2. Criminal sanctions. Any person who, having any of the culpable
10 mental states defined in section 15.05 of the penal law, shall violate
11 any of the provisions of or who fails to perform any duty imposed by
12 section 19-0304 of this chapter, or any rules and regulations promulgat-
13 ed pursuant thereto, or any term or condition of any certificate or
14 permit issued pursuant thereto, or any final determination or order of
15 the commissioner made pursuant to article 19 of this chapter concerning
16 a violation of section 19-0304 of this chapter shall be guilty of a
17 misdemeanor and, upon conviction thereof, shall for a first conviction
18 be punished by a fine not to exceed [~~thirty-seven thousand five hundred~~]
19 fifty-six thousand two hundred fifty dollars per day of violation or by
20 imprisonment for a term of not more than one year, or both such fine and
21 imprisonment. If the conviction is for an offense committed after a
22 first conviction of such person under this subdivision, punishment shall
23 be by a fine not to exceed [~~seventy-five~~] one hundred twelve thousand
24 five hundred dollars per day of violation, or by imprisonment for not
25 more than two years or by both such fine and imprisonment.

26 § 44. Section 71-2201 of the environmental conservation law, as added
27 by chapter 740 of the laws of 1978, the opening paragraph and subdivi-
28 sion 1 as amended and subdivision 3 as added by chapter 901 of the laws
29 of 1983, subdivision 4 as added by chapter 294 of the laws of 1991, is
30 amended to read as follows:

31 § 71-2201. Enforcement of title 23 of article 23 of this chapter.

32 Administrative and civil sanctions. 1. Any person who violates any of
33 the provisions of, or who fails to perform any duty imposed by title 23
34 of article 23 except the duty to accept used oil pursuant to section
35 23-2307 or any person subject to section 23-2308 or any rule or regu-
36 lation promulgated pursuant thereto, or any term or condition of any
37 certificate or permit issued pursuant thereto, or any final determi-
38 nation or order of the commissioner made pursuant to this section shall
39 be liable for a civil penalty not to exceed one thousand five hundred
40 dollars for each such violation and an additional penalty of not more
41 than [~~five~~] seven hundred fifty dollars for each day during which such
42 violation continues, to be assessed by the commissioner after a hearing
43 or opportunity to be heard pursuant to the provisions of section 71-1709
44 of this chapter, and, in addition thereto, such person may by similar
45 process be enjoined from continuing such violation and any permit or
46 certificate issued to such person may be revoked or suspended or a pend-
47 ing renewal application denied.

48 2. Any person who refuses to accept used oil as required pursuant to
49 subdivision two of section 23-2307 shall be liable for a civil penalty
50 not to exceed one hundred fifty dollars.

51 3. Any person who violates any provision of section 23-2308 of this
52 chapter shall be subject to a civil penalty not to exceed [~~two hundred~~
53 fifty] three hundred seventy-five dollars for each violation.

54 4. Notwithstanding any other provision of law, any person who shall
55 violate the provisions of paragraph (c) of subdivision one of section
56 23-2307 or paragraph (d) of subdivision two of section 23-2307 of this

chapter shall be liable for a civil penalty of not more than [~~five~~ seven hundred fifty dollars, and an additional civil penalty of not more than [~~five~~ seven hundred fifty dollars for each day during which such violation continues, not to exceed [~~ten~~ fifteen thousand dollars.

§ 45. Section 71-2303 of the environmental conservation law, as amended by chapter 99 of the laws of 2010, subdivisions 1 and 2 as amended by section 15 of part QQ of chapter 58 of the laws of 2022, is amended to read as follows:

§ 71-2303. Violation; penalties.

1. Civil sanctions. a. Any person who violates, disobeys or disregards any provision of article twenty-four, including title five and section 24-0507 thereof or any rule or regulation, local law or ordinance, permit or order issued pursuant thereto, shall be liable to the people of the state for a civil penalty of not to exceed [~~eleven~~ sixteen thousand five hundred dollars for every such violation, to be assessed, after a hearing or opportunity to be heard upon due notice and with the rights to specification of the charges and representation by counsel at such hearing, by the commissioner or local government or in an action initiated by the attorney general pursuant to section 71-2305 of this title or on the attorney general's own initiative. Each violation shall be a separate and distinct violation and, in the case of a continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation. Such penalty assessed by the commissioner or local government may be recovered in an action brought by the attorney general at the request and in the name of the commissioner or local government in any court of competent jurisdiction. Such civil penalty may be released or compromised by the commissioner or local government before the matter has been referred to the attorney general; and where such matter has been referred to the attorney general, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the attorney general with the consent of the commissioner or local government. In addition, the commissioner or local government shall have power, following a hearing held in conformance with the procedures set forth in section 71-1709 of this article, to direct the violator to cease violating the act and to restore the affected freshwater wetland to its condition prior to the violation, insofar as that is possible within a reasonable time and under the supervision of the commissioner or local government. Any such order of the commissioner or local government shall be enforceable in an action brought by the attorney general at the request and in the name of the commissioner or local government in any court of competent jurisdiction. Any civil penalty or order issued by the commissioner or local government pursuant to this subdivision shall be reviewable in a proceeding pursuant to article seventy-eight of the civil practice law and rules.

b. Upon determining that significant damage to the functions and benefits of a freshwater wetland is occurring or is imminent as a result of any violation of article twenty-four of this chapter, including but not limited to (i) activity taking place requiring a permit under article twenty-four of this chapter but for which no permit has been granted or (ii) failure on the part of a permittee to adhere to permit conditions, the commissioner or local government shall have power to direct the violator to cease and desist from violating the act. In such cases the violator shall be provided an opportunity to be heard within ten days of receipt of the notice to cease and desist.

2. Criminal sanctions. Any person who violates any provision of article twenty-four of this chapter, including any rule or regulation, local law or ordinance, permit or order issued pursuant thereto, shall, in addition, for the first offense, be guilty of a violation punishable by a fine of not less than ~~[two]~~ three thousand nor more than ~~[five]~~ seven thousand five hundred dollars; for a second and each subsequent offense he shall be guilty of a misdemeanor punishable by a fine of not less than ~~[four]~~ six thousand nor more than ~~[ten]~~ fifteen thousand dollars or a term of imprisonment of not less than fifteen days nor more than six months or both. In addition to these punishments, any offender may be punishable by being ordered by the court to restore the affected freshwater wetland or adjacent area to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the commissioner or local government. Each offense shall be a separate and distinct offense and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

3. All fines collected pursuant to this section shall be paid into the ~~[environmental protection fund established pursuant to section ninety-two of the state finance law]~~ conservation fund to the credit of the conservation enforcement account established pursuant to subdivision (k) of section eighty-three of the state finance law.

§ 46. Paragraph a of subdivision 1 and subdivision 2 of section 71-2503 of the environmental conservation law, as amended by chapter 666 of the laws of 1989, are amended to read as follows:

a. Any person who violates, disobeys or disregards any provision of article twenty-five shall be liable to the people of the state for a civil penalty of not to exceed ~~[ten]~~ fifteen thousand dollars for every such violation, to be assessed, after a hearing or opportunity to be heard, by the commissioner. Each violation shall be a separate and distinct violation and, in the case of a continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation. The penalty may be recovered in an action brought by the commissioner in any court of competent jurisdiction. Such civil penalty may be released or compromised by the commissioner before the matter has been referred to the attorney general; and where such matter has been referred to the attorney general, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the attorney general with the consent of the commissioner.

2. Criminal sanctions. Any person who violates any provision of article twenty-five shall, in addition, for the first offense, be guilty of a violation punishable by a fine of not less than ~~[five]~~ seven hundred fifty nor more than ~~[five]~~ seven thousand five hundred dollars; for a second and each subsequent offense such person shall be guilty of a misdemeanor punishable by a fine of not less than one thousand nor more than ~~[ten]~~ fifteen thousand dollars or a term of imprisonment of not less than fifteen days nor more than six months or both. In addition to or instead of these punishments, any offender shall be punishable by being ordered by the court to restore the affected tidal wetland or area immediately adjacent thereto to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of the restoration, which shall be effected under the supervision of the commissioner. Each offense shall be a separate and

1 distinct offense and, in the case of a continuing offense, each day's
2 continuance thereof shall be deemed a separate and distinct offense.

3 § 47. Section 71-2505 of the environmental conservation law, as
4 amended by chapter 249 of the laws of 1997, is amended to read as
5 follows:

6 § 71-2505. Enforcement.

7 The attorney general, on his or her own initiative or at the request
8 of the commissioner, shall prosecute persons who violate article twen-
9 ty-five. In addition the attorney general, on his or her own initiative
10 or at the request of the commissioner, shall have the right to recover a
11 civil penalty of up to ~~[ten]~~ fifteen thousand dollars for every
12 violation of any provision of such article, and to seek equitable relief
13 to restrain any violation or threatened violation of such article and to
14 require the restoration of any affected tidal wetland or area immediate-
15 ly adjacent thereto to its condition prior to the violation, insofar as
16 that is possible, within a reasonable time and under the supervision of
17 the commissioner. In the case of a continuing violation, each day's
18 continuance thereof shall be deemed a separate and distinct violation.

19 § 48. Subdivisions 1, 2 and 3 of section 71-2703 of the environmental
20 conservation law, as amended by chapter 508 of the laws of 1995, para-
21 graph a of subdivision 1 as amended by section 25, subparagraphs i and
22 ii of paragraph b of subdivision 1 as amended by section 26, paragraph a
23 and subparagraphs i and ii of paragraph b of subdivision 2 as amended by
24 section 27, subparagraphs i and ii of paragraph c of subdivision 2 as
25 amended by section 28 and subdivision 3 as amended by section 29 of part
26 C of chapter 62 of the laws of 2003, are amended to read as follows:

27 1. Civil and administrative sanctions. a. Any person who violates any
28 of the provisions of, or who fails to perform any duty imposed by title
29 3 or 7 of article 27 of this chapter or any rule or regulation promul-
30 gated pursuant thereto, or any term or condition of any certificate or
31 permit issued pursuant thereto, or any final determination or order of
32 the commissioner made pursuant to this title shall be liable for a civil
33 penalty not to exceed ~~[seven thousand five hundred]~~ eleven thousand two
34 hundred fifty dollars for each such violation and an additional penalty
35 of not more than ~~[one thousand five hundred]~~ two thousand two hundred
36 fifty dollars for each day during which such violation continues, to be
37 assessed by the commissioner after an opportunity to be heard pursuant
38 to the provisions of section 71-1709 of this article, or by the court in
39 any action or proceeding pursuant to section 71-2727 of this title, and,
40 in addition thereto, such person may by similar process be enjoined from
41 continuing such violation and any permit or certificate issued to such
42 person may be revoked or suspended or a pending renewal application
43 denied.

44 b. i. Any person who violates any of the provisions of, or who fails
45 to perform any duty imposed by, title 3 or 7 of article 27 of this chap-
46 ter, or any rule or regulation promulgated pursuant thereto, or any term
47 or condition of any certificate or permit issued pursuant thereto and
48 thereby causes the release of solid waste into the environment, shall be
49 liable for a civil penalty not to exceed ~~[eleven thousand two hundred~~
50 ~~fifty]~~ sixteen thousand eight hundred seventy-five dollars for each such
51 violation and an additional penalty of not more than ~~[eleven thousand~~
52 ~~two hundred fifty]~~ sixteen thousand eight hundred seventy-five dollars
53 for each day during which such violation continues, to be assessed by
54 the commissioner after an opportunity to be heard pursuant to the
55 provisions of section 71-1709 of this article, or by the court in any
56 action or proceeding pursuant to section 71-2727 of this title, and, in

1 addition thereto, such person may by similar process be enjoined from
2 continuing such violation and any permit or certificate issued to such
3 person may be revoked or suspended or a pending renewal application
4 denied.

5 ii. Any person who violates any of the provisions of, or who fails to
6 perform any duty imposed by, title 3 or 7 of article 27 of this chapter,
7 or any rule or regulation promulgated pursuant thereto, or any term or
8 condition of any certificate or permit issued pursuant thereto and
9 thereby causes the release of more than ten cubic yards of solid waste
10 into the environment, shall be liable for a civil penalty not to exceed
11 ~~[twenty-two thousand five hundred]~~ thirty-three thousand seven hundred
12 fifty dollars for each such violation and an additional penalty of not
13 more than ~~[twenty-two thousand five hundred]~~ thirty-three thousand seven
14 hundred fifty dollars for each day during which such violation contin-
15 ues, to be assessed by the commissioner after an opportunity to be heard
16 pursuant to the provisions of section 71-1709 of this article, or by the
17 court in any action or proceeding pursuant to section 71-2727 of this
18 title, and, in addition thereto, such person may by similar process be
19 enjoined from continuing such violation and any permit or certificate
20 issued to such person may be revoked or suspended or a pending renewal
21 application denied.

22 c. The court in any action or proceeding pursuant to section 71-2727
23 of this chapter may exercise all powers exercisable by the commissioner.

24 2. Criminal sanctions. a. Any person who, having any of the culpable
25 mental states defined in section 15.05 of the penal law, shall violate
26 any of the provisions of or who fails to perform any duty imposed by
27 title 3 or 7 of article 27 of this chapter, or any rules and regulations
28 promulgated pursuant thereto, or any final determination or order of the
29 commissioner made pursuant to this title shall be guilty of a violation
30 and, upon conviction thereof, shall be punished by a fine of not less
31 than ~~[one thousand five hundred]~~ two thousand two hundred fifty dollars
32 nor more than ~~[fifteen]~~ twenty-two thousand five hundred dollars per day
33 of violation or by imprisonment for not more than fifteen days or by
34 both such fine and imprisonment.

35 b. i. Any person who shall violate paragraph a of this subdivision and
36 thereby causes or attempts to cause the release of more than ten cubic
37 yards of solid waste into the environment shall be guilty of a class B
38 misdemeanor and, upon conviction thereof, shall be punished by a fine of
39 not less than ~~[three thousand seven hundred fifty]~~ five thousand six
40 hundred twenty-five dollars per day nor more than ~~[twenty-two thousand~~
41 ~~five hundred]~~ thirty-three thousand seven hundred fifty dollars per day
42 of violation, or by imprisonment for a term in accordance with the penal
43 law, or by both such fine and imprisonment.

44 ii. Any person who shall violate paragraph a of this subdivision and
45 thereby causes or attempts to cause the release of more than ten cubic
46 yards of solid waste into the environment, after having been convicted
47 of a violation of this subdivision within the preceding five years,
48 shall be guilty of a class A misdemeanor and, upon conviction thereof,
49 shall be punished by a fine of not less than ~~[three thousand seven~~
50 ~~hundred fifty]~~ five thousand six hundred twenty-five dollars per day nor
51 more than ~~[thirty-seven thousand five hundred]~~ fifty-six thousand two
52 hundred fifty dollars per day of violation, or by imprisonment for a
53 term in accordance with the penal law, or by both such fine and impri-
54 sonment.

55 c. i. Any person who shall violate paragraph a of this subdivision and
56 thereby causes or attempts to cause the release of more than seventy

1 cubic yards of solid waste into the environment shall be guilty of a
2 class A misdemeanor and, upon conviction thereof, shall be punished by a
3 fine of not less than [~~three thousand seven hundred fifty~~] five thousand
4 six hundred twenty-five dollars per day nor more than [~~thirty-seven~~
5 ~~thousand five hundred~~] fifty-six thousand two hundred fifty dollars per
6 day of violation, or by imprisonment for a term in accordance with the
7 penal law, or by both such fine and imprisonment.

8 ii. Any person who shall violate paragraph a of this subdivision and
9 thereby causes or attempts to cause the release of more than seventy
10 cubic yards of solid waste into the environment, after having been
11 convicted of a violation of this subdivision within the preceding five
12 years, shall be guilty of a class E felony and, upon conviction thereof,
13 shall be punished by a fine of not less than [~~seven thousand five~~
14 ~~hundred~~] eleven thousand two hundred fifty dollars per day nor more than
15 [~~seventy-five~~] one hundred twelve thousand five hundred dollars per day
16 of violation, or by imprisonment for a term in accordance with the penal
17 law, or by both such fine and imprisonment.

18 3. Additional sanctions. Any person who violates any of the provisions
19 of, or who fails to perform any duty imposed by title 7 of article 27,
20 with regard to the construction and operation of facilities for the
21 disposal of construction and demolition debris or any rule or regulation
22 promulgated pursuant thereto, or any term or condition of any certif-
23 icate or permit issued pursuant thereto or any final determination or
24 order of the commissioner made pursuant to this title shall be liable
25 for a civil penalty not to exceed [~~fifteen~~] twenty-two thousand five
26 hundred dollars and each day of such deposition shall constitute a sepa-
27 rate violation and said civil penalty is in addition to any other fines
28 or penalties which may be applied pursuant to this title.

29 § 49. Section 71-2705 of the environmental conservation law, as added
30 by chapter 550 of the laws of 1980, subdivision 1 as amended by section
31 30 and subdivision 2 as amended by section 31 of part C of chapter 62 of
32 the laws of 2003, is amended to read as follows:

33 § 71-2705. Violations of titles 9, 11 and 13 of article 27 of this chap-
34 ter.

35 1. Civil and administrative sanctions. Any person who violates any of
36 the provisions of, or who fails to perform any duty imposed by titles 9,
37 11 and 13 of article 27 or any rule or regulation promulgated pursuant
38 thereto, or any term or condition of any certificate or permit issued
39 pursuant thereto, or any final determination or order of the commission-
40 er made pursuant to this title shall be liable in the case of a first
41 violation, for a civil penalty not to exceed [~~thirty-seven thousand five~~
42 ~~hundred~~] fifty-six thousand two hundred fifty dollars and an additional
43 penalty of not more than [~~thirty-seven thousand five hundred~~] fifty-six
44 thousand two hundred fifty dollars for each day during which such
45 violation continues, to be assessed by the commissioner after an oppor-
46 tunity to be heard pursuant to the provisions of section 71-1709 of this
47 article, or by the court in any action or proceeding pursuant to section
48 71-2727 of this title, and, in addition thereto, such person may by
49 similar process be enjoined from continuing such violation and any
50 permit or certificate issued to such person may be revoked or suspended
51 or a pending renewal application denied. In the case of a second and any
52 further violation, the liability shall be for a civil penalty not to
53 exceed [~~seventy-five~~] one hundred twelve thousand five hundred dollars
54 for each such violation and an additional penalty not to exceed [~~seven-~~
55 ~~ty-five~~] one hundred twelve thousand five hundred dollars for each day
56 during which such violation continues.

2. Criminal sanctions. Any person who, having any of the culpable mental states defined in section 15.05 of the penal law, shall violate any of the provisions of or who fails to perform any duty imposed by titles 9, 11 and 13 of article 27 or any rules and regulations promulgated pursuant thereto, or any term or condition of any certificate or permit issued pursuant thereto, or any final determination or order of the commissioner made pursuant to this title shall be guilty of a misdemeanor and, upon conviction thereof, shall for a first conviction be punished by a fine not to exceed ~~[thirty-seven thousand five hundred]~~ fifty-six thousand two hundred fifty dollars per day of violation or by imprisonment for a term of not more than one year, or both such fine and imprisonment. If the conviction is for an offense committed after a first conviction of such person under this subdivision, punishment shall be by a fine not to exceed ~~[seventy-five]~~ one hundred twelve thousand five hundred dollars per day of violation, or by imprisonment for not more than two years or by both such fine and imprisonment.

§ 50. Subdivision 2 of section 71-2721 of the environmental conservation law, as amended by section 32 of part C of chapter 62 of the laws of 2003, is amended to read as follows:

2. Fines. A sentence to pay a fine shall be a sentence to pay an amount fixed by the court, not exceeding the higher of:

- (a) ~~[Three]~~ Four hundred fifty thousand dollars for a class C felony;
- (b) ~~[Two hundred twenty-five thousand]~~ Three hundred thirty-seven thousand five hundred dollars for a class D felony;
- (c) ~~[One hundred fifty thousand]~~ Twenty-two thousand five hundred dollars for a class E felony;
- (d) ~~[Thirty-seven thousand five hundred]~~ Fifty-six thousand two hundred fifty dollars for a class A misdemeanor;
- (e) ~~[Fifteen]~~ Twenty-two thousand five hundred dollars for a class B misdemeanor; or
- (f) Double the amount of the defendant's gain from the commission of the crime.

§ 51. Subdivisions 1, 2 and 5 of section 71-2722 of the environmental conservation law, as added by chapter 152 of the laws of 1990, subdivision 1 as amended by section 33 and subdivision 2 as amended by section 34 of part C of chapter 62 of the laws of 2003, are amended to read as follows:

1. Any person who knowingly or intentionally violates any of the provisions or fails to perform any duty imposed by section 27-1701 of this chapter, except the duty to accept a lead-acid battery pursuant to subdivision four of such section, shall be liable for a civil penalty not to exceed ~~[seventy-five]~~ one hundred twelve dollars and fifty cents for each violation, provided that such civil penalty shall be in addition to any other penalties authorized under other state or local laws governing the illegal disposal of lead-acid batteries.

2. Any retailer or distributor who refuses to accept a lead-acid battery as required pursuant to subdivision four of section 27-1701 of this chapter shall be liable for a civil penalty not to exceed ~~[seven hundred fifty]~~ one thousand one hundred twenty-five dollars.

5. All civil penalties and fines collected for any violation of such title seventeen shall be paid over to the commissioner for deposit in the ~~[general fund]~~ conservation fund to the credit of the conservation enforcement account established pursuant to subdivision (k) of section eighty-three of the state finance law; provided however, that all civil penalties collected for any violation of such title seventeen which have been imposed by the environmental control board of the city of New York,

1 or a local adjudicatory body pursuant to subdivision four of this
2 section, shall be paid into an environmental fund of such city or local-
3 ity.

4 § 52. Subdivisions 1, 2 and 4 of section 71-2724 of the environmental
5 conservation law, as added by chapter 145 of the laws of 2004, subdivi-
6 sions 1 and 2 as amended by chapter 30 of the laws of 2020, are amended
7 to read as follows:

8 1. Any person who knowingly or intentionally violates any provision of
9 or fails to perform any duty pursuant to title twenty-one of article
10 twenty-seven of this chapter, except subdivision one of section 27-2105
11 of this chapter, shall upon the first finding of such a violation be
12 liable for a civil penalty not to exceed one hundred **fifty** dollars. Any
13 person convicted of a second or subsequent violation shall be liable for
14 a civil penalty not to exceed [~~five~~] **seven** hundred **fifty** dollars for
15 each violation.

16 2. Any person who knowingly or intentionally violates or fails to
17 perform any duty imposed by subdivision one of section 27-2105 of this
18 chapter shall upon the first finding of such a violation be provided
19 with educational materials describing the requirements for mercury
20 disposal and the effects of improper mercury disposal, and be warned
21 that future violations shall result in the imposition of a fine. Any
22 person convicted of a second violation shall be liable for a civil
23 penalty not to exceed [~~fifty~~] **seventy-five** dollars. Any person convicted
24 of a third violation shall be liable for a civil penalty not to exceed
25 [~~seventy-five~~] **one hundred twelve** dollars **and fifty cents**. Any person
26 convicted of a fourth or subsequent violation shall be liable for a
27 civil penalty not to exceed one hundred dollars for each violation.

28 4. All civil penalties and fines collected for any violation of title
29 twenty-one of article twenty-seven of this chapter shall be paid over to
30 the commissioner for deposit in the [~~environmental protection fund~~
31 ~~established by section ninety-two-s of the state finance law~~] **conserva-**
32 **tion fund to the credit of the conservation enforcement account estab-**
33 **lished pursuant to subdivision (k) of section eighty-three of the state**
34 **finance law**.

35 § 53. Subdivisions 1 and 3 of section 71-2728 of the environmental
36 conservation law, as added by chapter 641 of the laws of 2008, are
37 amended to read as follows:

38 1. Any person who knowingly or intentionally violates any provision of
39 or fails to perform any duty imposed pursuant to title 27 of article 27
40 of this chapter shall upon the first finding of such a violation be
41 provided with a warning that future violations shall result in the im-
42 position of a fine. Any person convicted of a second violation shall be
43 liable for a civil penalty not to exceed one hundred **fifty** dollars. Any
44 person convicted of a third or subsequent violation shall be liable for
45 a civil penalty not to exceed [~~five~~] **seven** hundred **fifty** dollars.

46 3. All civil penalties and fines collected for any violation of title
47 27 of article 27 of this chapter shall be paid over to the commissioner
48 for deposit in the [~~environmental protection fund established by section~~
49 ~~ninety-two-s of the state finance law~~] **conservation fund to the credit**
50 **of the conservation enforcement account established pursuant to subdivi-**
51 **sion (k) of section eighty-three of the state finance law**.

52 § 54. Section 71-2729 of the environmental conservation law, as added
53 by chapter 99 of the laws of 2010, is amended to read as follows:

54 § 71-2729. Enforcement of title 26 of article 27 of this chapter.

55 1. a. Any consumer, as defined in title twenty-six of article twenty-
56 seven of this chapter, who violates any provision of, or fails to

perform any duty imposed by, section 27-2611 of this chapter, shall be liable for a civil penalty not to exceed one hundred ~~fifty~~ dollars for each violation.

b. Any person, except a consumer, manufacturer, or an owner or operator of an electronic waste collection site, electronic waste consolidation facility, or electronic waste recycling facility as these terms are defined in title twenty-six of article twenty-seven of this chapter, who violates any provision, or fails to perform any duty imposed by section 27-2611 of this chapter, shall be liable for a civil penalty not to exceed ~~[two hundred fifty]~~ three hundred seventy-five dollars for each violation.

c. Any manufacturer, or any person operating an electronic waste collection site, an electronic waste consolidation facility, or an electronic waste recycling facility as those terms are defined in title twenty-six of article twenty-seven of this chapter, who:

i. fails to submit any report, registration, fee, or surcharge to the department as required by title twenty-six of article twenty-seven of this chapter shall be liable for a civil penalty not to exceed one thousand five hundred dollars for each day such report, registration, fee, or surcharge is not submitted; and

ii. violates any other provision of title twenty-six of article twenty-seven of this chapter or fails to perform any duty imposed by such title, except for subdivision four of section 27-2603 of this chapter, shall be liable for a civil penalty for each violation not to exceed one thousand five hundred dollars for the first violation, ~~[two thousand five hundred]~~ three thousand seven hundred fifty dollars for the second violation and ~~[five]~~ seven thousand five hundred dollars for the third and subsequent violations of this title within a twelve-month period.

d. Any retailer, as defined by section 27-2601 of this chapter, who violates any provision of title twenty-six of article twenty-seven of this chapter or fails to perform any duty imposed by such title, shall be liable for a civil penalty for each violation not to exceed ~~[two hundred fifty]~~ three hundred seventy-five dollars for the first violation, ~~[five]~~ seven hundred fifty dollars for the second violation and one thousand five hundred dollars for the third and subsequent violations of this title in a twelve-month period.

e. Civil penalties under this section shall be assessed by the commissioner after a hearing or opportunity to be heard pursuant to the provisions of section 71-1709 of this article, or by the court in any action or proceeding pursuant to this section, and, in addition thereto, such person may by similar process be enjoined from continuing such violation.

2. All penalties collected pursuant to this section shall be paid over to the commissioner for deposit to the ~~[environmental protection fund established pursuant to section ninety-two-s of the state finance law]~~ conservation fund to the credit of the conservation enforcement account established pursuant to subdivision (k) of section eighty-three of the state finance law.

§ 55. Subdivisions 1 and 3 of section 71-2907 of the environmental conservation law, as amended by chapter 285 of the laws of 2000, are amended to read as follows:

1. Administrative sanctions. Except as otherwise provided in this subdivision, any person who violates any provision of article 33 of this chapter or any rule, regulation or order issued thereunder or commits any offense described in section 33-1301 of this chapter shall be liable to the people of the state for a civil penalty not to exceed ~~[five]~~

1 ~~seven~~ thousand ~~five hundred~~ dollars for a first violation, and not to
2 exceed [~~ten~~] ~~fifteen~~ thousand dollars for a subsequent offense, to be
3 assessed by the commissioner after a hearing or opportunity to be heard.
4 Notwithstanding any provision of law to the contrary, an owner or
5 owner's agent of a multiple dwelling or owner, owner's agent or a person
6 in a position of authority for all other types of premises, as such
7 terms are defined in paragraph d of subdivision five of section 33-0905
8 of this chapter, who violates any provision of a local law adopted
9 pursuant to subdivision one of section 33-1004 of this chapter relating
10 to paragraph b of such subdivision, and a person, who violates any
11 provision of a local law adopted pursuant to subdivision one of section
12 33-1004 of this chapter relating to paragraph c of such subdivision, and
13 a person who violates the provisions of subdivision three of section
14 three hundred ninety-c of the social services law shall, for a first
15 such violation, in lieu of a penalty, be issued a written warning and
16 shall also be issued educational materials pursuant to subdivision two
17 of section 33-1005 of this chapter. Such person shall, however, for a
18 second violation, be liable to the people of the state for a civil
19 penalty not to exceed one hundred ~~fifty~~ dollars, and not to exceed [~~two~~
20 ~~hundred—fifty~~] ~~three hundred seventy-five~~ dollars for any subsequent
21 violation, such penalties to be assessed by the commissioner after a
22 hearing or opportunity to be heard.

23 Notwithstanding any provision of law to the contrary, any person who
24 violates the provisions of a local law adopted pursuant to subdivision
25 one of section 33-1004 of this chapter relating to paragraph a of such
26 subdivision, shall be issued a warning for the first violation and shall
27 be provided seven days to correct such violation; and shall be liable to
28 the people of the state for a civil penalty not to exceed one hundred
29 ~~fifty~~ dollars for a second violation, and not to exceed [~~two hundred~~
30 ~~fifty~~] ~~three hundred seventy-five~~ dollars for a subsequent violation, to
31 be assessed by the commissioner after a hearing or opportunity to be
32 heard. The commissioner, acting by the attorney general, may bring suit
33 for collection of such assessed civil penalty in any court of competent
34 jurisdiction. Such civil penalty may be released or compromised by the
35 commissioner before the matter has been referred to the attorney gener-
36 al; and where such matter has been referred to the attorney general, any
37 such penalty may be released or compromised and any action commenced to
38 recover the same may be settled and discontinued by the attorney general
39 with the consent of the commissioner. Any civil penalty assessed by the
40 commissioner under this subdivision shall be reviewable in a proceeding
41 under article 78 of the civil practice law and rules.

42 3. Criminal sanctions. Any person who, having the culpable mental
43 states defined in subdivision one or two of section 15.05 or in section
44 20.20 of the penal law, violates any provision of article 33 of this
45 chapter or any rule, regulation thereunder or commits any offense
46 described in section 33-1301 of this chapter, except an offense relating
47 to the application of a general use pesticide shall be guilty of a
48 misdemeanor and, upon conviction thereof, shall be punished by a fine
49 not to exceed [~~five~~] ~~seven~~ thousand ~~five hundred~~ dollars for each day
50 during which such violation continues or by imprisonment for a term of
51 not more than one year, or by both such fine and imprisonment. If the
52 conviction is for a subsequent offense committed after a first
53 conviction of such person under this subdivision, punishment shall be by
54 a fine not to exceed [~~ten~~] ~~fifteen~~ thousand dollars for each day during
55 which such violation continues or by imprisonment for a term of not more
56 than one year, or by both such fine and imprisonment. When a violation

1 consists of the manufacture or production of any prohibited article,
2 each day during which or any part of which such manufacture or
3 production is carried on or continued, shall be deemed a separate
4 violation. Any person who violates any provision of article 33 of this
5 chapter or any rule or regulation thereunder or commits any offense
6 described in section 33-1301 of this chapter relating to the use of a
7 general use pesticide shall be guilty of a violation and, upon
8 conviction thereof, shall be punished by a fine not to exceed [~~twenty-~~
9 ~~five hundred~~] three thousand seven hundred fifty dollars. If the
10 conviction is for a subsequent offense committed after the first such
11 conviction of such person under this subdivision, punishment shall be by
12 a fine not to exceed [~~five~~] seven thousand five hundred dollars. Prose-
13 cution hereunder may be conducted by either the attorney general or the
14 district attorney consistent with section 71-0403 of this article. With
15 respect to violations of section 33-1004 of this chapter, penalties
16 imposed pursuant to this subdivision may be assessed only against a
17 person providing a commercial lawn application.

18 § 56. Section 71-3103 of the environmental conservation law is amended
19 to read as follows:

20 § 71-3103. Enforcement of article 35.

21 Any person who violates any of the provisions of, or who fails to
22 perform any duties imposed by article 35 or any regulation promulgated
23 by the commissioner thereunder, shall be liable to a civil penalty of
24 not more than [~~twenty-five hundred~~] three thousand seven hundred fifty
25 dollars for each such violation and an additional penalty of not more
26 than [~~five~~] seven hundred fifty dollars for each day during which such
27 violation continues, and, in addition thereto, such person may be
28 enjoined from continuing such violation. Penalties and injunctive relief
29 provided herein shall be recoverable in an action brought by the Attor-
30 ney General at the request and in the name of the commissioner.

31 § 57. Subdivision 1 of section 71-3303 of the environmental conserva-
32 tion law, as added by chapter 617 of the laws of 1987, is amended to
33 read as follows:

34 1. Any person who violates any provision of, or fails to perform any
35 duty imposed by article forty-three of this chapter or any rule or regu-
36 lation promulgated pursuant thereto, or any term or condition of any
37 certificate or permit issued pursuant thereto, or any final determi-
38 nation or order of the Lake George park commission made pursuant to
39 article forty-three of this chapter shall be liable for a civil penalty
40 not to exceed [~~five~~] seven hundred fifty dollars for each such violation
41 and an additional penalty of [~~five~~] seven hundred fifty dollars for each
42 day during which such violation continues, to be assessed by the Lake
43 George park commission after an opportunity to be heard, or by the court
44 in any action or proceeding initiated by the attorney general in the
45 name of the Lake George park commission. In addition thereto, such
46 person may, by similar process, be enjoined from continuing such
47 violation, and any permit or certificate issued to such person may be
48 revoked or suspended, or a pending renewal application denied based upon
49 such violation.

50 § 58. Section 71-3307 of the environmental conservation law, as added
51 by chapter 617 of the laws of 1987, is amended to read as follows:

52 § 71-3307. Criminal sanctions.

53 Any person who, having any of the culpable mental states defined in
54 section 15.05 of the penal law, shall violate any of the provisions of
55 or who fails to perform any duty imposed by article forty-three of this
56 chapter or any rules or regulations promulgated thereto, or any final

determination or order of the Lake George park commission shall be guilty of a violation, and, upon conviction thereof, shall be punished by a fine not to exceed [~~five~~] seven hundred fifty dollars for each violation and [~~five~~] seven hundred fifty dollars for each day such violation shall continue.

§ 59. Section 71-3501 of the environmental conservation law is amended to read as follows:

§ 71-3501. Putting noisome or unwholesome substances or maintaining noisome business on or near highway.

A person, who deposits, leaves or keeps, on or near a highway or route of public travel, either on the land or on the water, any noisome or unwholesome substance, or establishes, maintains or carries on, upon or near a public highway or route of public travel, either on the land or on the water, any business, trade or manufacture which is noisome or detrimental to public health, is guilty of a misdemeanor, punishable by a fine of not less than one hundred fifty dollars, or by imprisonment not less than three nor more than six months, or both.

§ 60. Section 71-3703 of the environmental conservation law, as amended by chapter 259 of the laws of 2011, subdivision 4 as amended by chapter 44 of the laws of 2020, subdivision 5 as added by chapter 829 of the laws of 2021, and subdivision 6 as added by chapter 111 of the laws of 2023, is amended to read as follows:

§ 71-3703. Enforcement of article 37.

1. Any person who violates any of the provisions of, or who fails to perform any duty imposed by section 37-0107 or any rule or regulation promulgated pursuant hereto, shall be liable for a civil penalty not to exceed [~~two thousand five hundred~~] three thousand seven hundred fifty dollars for each such violation and an additional penalty of not more than [~~five~~] seven hundred fifty dollars for each day during which such violation continues, and, in addition thereto, such person may be enjoined from continuing such violation.

2. Any person who violates any of the provisions of, or who fails to perform any duty imposed by section 37-0505 or any rule or regulation promulgated pursuant hereto, shall be liable for a civil penalty not to exceed one thousand five hundred dollars for each day during which such violation continues, and in addition thereto, such person may be enjoined from continuing such violation. Such person shall for a second violation be liable to the people of the state for a civil penalty not to exceed [~~two thousand five hundred~~] three thousand seven hundred fifty dollars for each day during which such violation continues.

3. Any person who violates any of the provisions of, or who fails to perform any duty imposed by section 37-0705 or any rule or regulation promulgated pursuant hereto, shall be liable for a civil penalty not to exceed one thousand five hundred dollars for each day during which such violation continues, and in addition thereto, such person may be enjoined from continuing such violation. Such person shall for a second violation be liable to the people of the state for a civil penalty not to exceed [~~two thousand five hundred~~] three thousand seven hundred fifty dollars for each day during which such violation continues.

4. Any person who violates any of the provisions of, or who fails to perform any duty imposed by section 37-0117 or any rule or regulation promulgated pursuant hereto, shall be liable for a civil penalty not to exceed one thousand five hundred dollars for each day during which such violation continues, and in addition thereto, such person may be enjoined from continuing such violation. Such person shall for a second violation be liable to the people of the state for a civil penalty not

1 to exceed [~~two thousand five hundred~~] three thousand seven hundred fifty
2 dollars for each day during which such violation continues.

3 5. Any person who violates any of the provisions of or who fails to
4 perform any duty imposed by sections 37-1003 and 37-1007 of this chapter
5 or any rule or regulation promulgated pursuant hereto, shall be liable
6 for a civil penalty not to exceed one thousand five hundred dollars for
7 each day during which such violation continues, and in addition thereto,
8 such person may be enjoined from continuing such violation. Such person
9 shall for a second violation be liable to the people of the state for a
10 civil penalty not to exceed [~~two thousand five hundred~~] three thousand
11 seven hundred fifty dollars for each day during which such violation
12 continues.

13 6. Any person who violates any of the provisions of, or who fails to
14 perform any duty imposed by section 37-0121 of this chapter or any rule
15 or regulation promulgated pursuant hereto, shall be liable for a civil
16 penalty not to exceed one thousand five hundred dollars for each day
17 during which such violation continues, and in addition thereto, such
18 person may be enjoined from continuing such violation. Such person shall
19 for a second violation be liable to the people of the state for a civil
20 penalty not to exceed [~~two thousand five hundred~~] three thousand seven
21 hundred fifty dollars for each day during which such violation contin-
22 ues.

23 § 61. Section 71-3803 of the environmental conservation law, as added
24 by chapter 713 of the laws of 1975, is amended to read as follows:

25 § 71-3803. Enforcement of article thirty-eight.

26 Any person who violates any of the provisions of, or who fails to
27 perform any duty imposed by article thirty-eight or any regulation
28 promulgated by the commissioner thereunder, shall be liable to a civil
29 penalty of not more than [~~twenty-five hundred~~] three thousand seven
30 hundred fifty dollars for each such violation and an additional penalty
31 of not more than [~~five~~] seven hundred fifty dollars for each day during
32 which such violation continues, and, in addition thereto, such person
33 may be enjoined from continuing such violation. Penalties and injunctive
34 relief provided herein shall be recoverable in an action brought by the
35 attorney general acting alone or at the request of the commissioner.

36 § 62. Section 71-3903 of the environmental conservation law, as added
37 by chapter 732 of the laws of 1980, is amended to read as follows:

38 § 71-3903. Violations; penalties.

39 1. Administrative sanctions. Any person who violates, disobeys or
40 disregards any provision of article thirty-nine shall be liable to the
41 people of the state for a civil penalty of not to exceed [~~three~~] four
42 thousand five hundred dollars for every such violation, to be assessed
43 by the commissioner after a hearing or opportunity to be heard. The
44 penalty may be recovered in an action brought by the commissioner in any
45 court of competent jurisdiction. Such civil penalty may be released or
46 [~~comprised~~] compromised by the commissioner before the matter has been
47 referred to the attorney general; and where such matter has been
48 referred to the attorney general, any such penalty may be released or
49 [~~comprised~~] compromised and any action commenced to recover the same may
50 be settled and discontinued by the attorney general with the consent of
51 the commissioner. In addition, the commissioner shall have power,
52 following a hearing, to direct the violator to cease his violation of
53 article thirty-nine and, where appropriate, to recall any sewage system
54 cleaners or additives sold or distributed in violation of said article.
55 Any such order of the commissioner shall be enforceable in an action
56 brought by the commissioner in any court of competent jurisdiction. Any

1 civil penalty or order issued by the commissioner under this subdivision
2 shall be reviewable in a proceeding under article seventy-eight of the
3 civil practice law and rules commenced within thirty days of such penal-
4 ty or order.

5 2. Criminal sanctions. Any person who knowingly violates any provision
6 of section 39-0105 of this chapter shall, in addition to the sanctions
7 provided in subdivision one of this section, for the first offense, be
8 guilty of a violation punishable by a fine of not less than [~~five~~] seven
9 hundred fifty nor more than one thousand five hundred dollars; for a
10 second and each subsequent offense he shall be guilty of a misdemeanor
11 punishable by a fine of not less than one thousand five hundred nor more
12 than [~~three~~] four thousand five hundred dollars or a term of imprison-
13 ment of not more than six months or both. In addition to or instead of
14 these sanctions, any offender shall be punishable by being ordered by
15 the court to recall any sewage system cleaners or additives sold or
16 distributed in violation of article thirty-nine. The court shall specify
17 a reasonable time for the completion of the recall. Each offense shall
18 be a separate and distinct offense and, in the case of a continuing
19 offense, each day's continuance thereof shall be deemed a separate and
20 distinct offense.

21 § 63. Section 71-3905 of the environmental conservation law, as added
22 by chapter 732 of the laws of 1980, is amended to read as follows:

23 § 71-3905. Enforcement.

24 The attorney general or a district attorney, at the request of the
25 attorney general or the commissioner, may prosecute persons who violate
26 article thirty-nine. In addition the attorney general, on his own initi-
27 ative or at the request of the commissioner, shall have the right to
28 recover a civil penalty of not to exceed [~~three~~] four thousand five
29 hundred dollars for every violation of any provision of said article,
30 and to seek equitable relief to restrain any violation or threatened
31 violation of such article and to require the recall of any sewage system
32 cleaners or additives sold or distributed in violation of said article.

33 § 64. Section 71-4001 of the environmental conservation law, as
34 amended by chapter 99 of the laws of 2010, is amended to read as
35 follows:

36 § 71-4001. General criminal penalty.

37 Except as otherwise specifically provided elsewhere in this chapter or
38 in the penal law, (a) a person who violates any provision of this chap-
39 ter, or any rule, regulation or order promulgated pursuant thereto, or
40 the terms or conditions of any permit issued thereunder, shall be guilty
41 of a violation; (b) each day on which such violation occurs shall
42 constitute a separate violation; and (c) for each such violation the
43 person shall be subject upon conviction to imprisonment for not more
44 than fifteen days or to a fine of not more than [~~nine~~] one thousand
45 three hundred fifty dollars, or to both such imprisonment and such fine.

46 § 65. Section 71-4003 of the environmental conservation law, as
47 amended by chapter 99 of the laws of 2010, is amended to read as
48 follows:

49 § 71-4003. General civil penalty.

50 Except as otherwise specifically provided elsewhere in this chapter, a
51 person who violates any provision of this chapter, or any rule, regu-
52 lation or order promulgated pursuant thereto, or the terms or conditions
53 of any permit issued thereunder, shall be liable to a civil penalty of
54 not more than one thousand five hundred dollars, and an additional civil
55 penalty of not more than one thousand five hundred dollars for each day
56 during which each such violation continues. Any civil penalty provided

1 for by this chapter may be assessed following a hearing or opportunity
2 to be heard.

3 § 66. Section 71-4103 of the environmental conservation law, as
4 amended by chapter 608 of the laws of 1993, is amended to read as
5 follows:

6 § 71-4103. Enforcement of article seventy-two.

7 Any person who violates any of the provisions of article seventy-two
8 of this chapter or the regulations promulgated thereunder shall be
9 liable for a civil penalty of up to one thousand **five hundred** dollars in
10 addition to any amount assessed as a penalty pursuant to subdivision
11 five of section 72-0201 of this chapter, except that any person who
12 fails to pay fees required pursuant to section 72-0303 of this chapter
13 shall be subject to penalty provisions pursuant to subdivision twelve of
14 section 72-0201 of this chapter.

15 § 67. Section 71-4303 of the environmental conservation law, as added
16 by chapter 672 of the laws of 1986, is amended to read as follows:

17 § 71-4303. Violations of article forty of this chapter.

18 1. Civil and administrative sanctions. Any person who violates any of
19 the provisions of, or who fails to perform any duty imposed by, article
20 forty of this chapter or any rule or regulation promulgated thereunder,
21 or any terms or conditions of any certificate or permit issued pursuant
22 thereto, or any final determination or order of the commissioner made
23 pursuant to this title, shall be liable in the case of a civil penalty
24 not to exceed twenty-five thousand dollars and an additional penalty of
25 not more than twenty-five thousand dollars for each day during which
26 such violation continues, to be assessed by the commissioner after an
27 opportunity to be heard pursuant to the provisions of section 71-1709 of
28 this article or by a court in any action or proceeding pursuant to this
29 title, and, in addition thereto such person may by similar process be
30 enjoined from continuing such violation. In addition, upon the provision
31 of notice stating the grounds for its action and giving an opportunity
32 for hearing, the commissioner may revoke, suspend or deny a certificate
33 or a renewal of a certificate issued pursuant to article forty of this
34 chapter. In the case of a second violation, the liability shall be for a
35 civil penalty not to exceed [~~fifty~~] **seventy-five** thousand dollars for
36 such violation and an additional penalty not to exceed [~~fifty~~] **seventy-**
37 **five** thousand dollars for each day during which such violation contin-
38 ues.

39 2. Criminal sanctions. Any person who, having any of the culpable
40 mental states defined in section 15.05 of the penal law, shall violate
41 any of the provisions of or who fails to perform any duty imposed by
42 article forty of this chapter or any rules or regulations promulgated
43 pursuant thereto, or any term or condition of any certificate or permit
44 issued pursuant thereto, or any final determination or order of the
45 commissioner made pursuant to this title shall be guilty of a misdemea-
46 nor and, upon conviction thereof, shall for a first conviction be
47 punished by a fine not to exceed [~~twenty-five~~] **thirty-seven** thousand
48 **five hundred** dollars per day of violation or by imprisonment for a term
49 of not more than one year, or by both such fine and imprisonment. If the
50 conviction is for an offense committed after a first conviction of such
51 person under this subdivision, punishment shall be by a fine not to
52 exceed [~~fifty~~] **seventy-five** thousand dollars per day of violation, or by
53 imprisonment for not more than two years or by both such fine and impri-
54 sonment.

55 § 68. Section 71-4402 of the environmental conservation law, as added
56 by chapter 180 of the laws of 1989, is amended to read as follows:

§ 71-4402. Violations of title 15 of article 27 of this chapter.

1. Civil and administrative sanctions.

Any person who violates any of the provisions of, or who fails to perform any duty imposed by title 15 of article 27 of this chapter, or any rule or regulation promulgated pursuant thereto, or any term or condition of any certificate or permit issued pursuant thereto, or any final determination or order of the commissioner made pursuant to this title shall be liable in the case of a first violation, for a civil penalty not to exceed ~~[twenty-five]~~ thirty-seven thousand five hundred dollars and an additional penalty of not more than ~~[twenty-five]~~ thirty-seven thousand five hundred dollars for each day during which such violation continues, to be assessed by the commissioner after an opportunity to be heard pursuant to the provisions of section 71-1709 of this chapter, or by the court in any action or proceeding pursuant to section 71-2727 of this chapter, and, in addition thereto, such persons may by similar process be enjoined from continuing such violation and any permit or certificate issued to such person may be revoked or suspended or a pending renewal application denied. In the case of a second and any further violation, the liability shall be for a civil penalty not to exceed ~~[fifty]~~ seventy-five thousand dollars for each such violation and an additional penalty not to exceed ~~[fifty]~~ seventy-five thousand dollars for each day during which such violation continues.

2. Criminal sanctions.

a. Any person who violates any of the provisions of or who fails to perform any duty imposed by title 15 of article 27 of this chapter or any rules and regulations promulgated pursuant thereto, or any term or condition of any certificate or permit issued pursuant thereto, or any final determination or order of the commissioner made pursuant to this title shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine not to exceed ~~[five]~~ seven thousand five hundred dollars per day of violation, or by imprisonment for a term of not more than fifteen days, or by both such fine and imprisonment.

b. Any person who, intentionally, knowingly, or recklessly shall violate any of the provisions of or who fails to perform any duty imposed by title 15 of article 27 of this chapter or any rules and regulations promulgated pursuant thereto, or any term or condition of any certificate or permit issued pursuant thereto, or any final determination or order of the commissioner made pursuant to this title shall be guilty of a class B misdemeanor and, upon conviction thereof, shall for a first conviction be punished by a fine not to exceed ~~[fifteen]~~ twenty-two thousand five hundred dollars per day of violation or by imprisonment for a term of not more than ninety days, or both such fine and imprisonment. If the conviction is for an offense committed after a first conviction of such person under this paragraph, within the preceding five years, such person shall be guilty of a class A misdemeanor and upon conviction, punishment shall be by a fine not to exceed ~~[fifty]~~ seventy-five thousand five hundred dollars per day of violation, or by imprisonment for not more than one year or by both such fine and imprisonment.

§ 69. Subdivision 2 of section 71-4411 of the environmental conservation law, as added by chapter 180 of the laws of 1989, is amended to read as follows:

2. Fines. A sentence to pay a fine shall be a sentence to pay any amount fixed by the court, not exceeding the higher of:

(a) ~~[one hundred fifty]~~ two hundred twenty-five thousand dollars for a class D felony;

1 (b) one hundred thousand dollars for a class E felony;
2 (c) [~~fifty~~ seventy-five thousand dollars for a class A misdemeanor;
3 (d) [~~fifteen~~ twenty-two thousand five hundred dollars for a class B
4 misdemeanor; or
5 (e) double the amount of the defendant's gain from the commission of
6 the crime.
7 § 70. This act shall take effect immediately; provided, however, that
8 if chapter 111 of the laws of 2023 shall not have taken effect on or
9 before such date then the amendments to subdivision 6 of section 71-3703
10 of the environmental conservation law made by section sixty of this act
11 shall take effect on the same date and in the same manner as such chap-
12 ter of the laws of 2023, takes effect.