

7634

I N S E N A T E

April 27, 2010

Introduced by Sen. OPPENHEIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to civil penalties

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 12 of the public health law, as
2 amended by section 16 of part A of chapter 58 of the laws of 2008, is
3 amended to read as follows:

4 1. (a) Except as provided in paragraphs (b) and (c) of this subdivi-
5 sion, any person who violates, disobeys or disregards any term or
6 provision of this chapter or of any lawful notice, order or regulation
7 pursuant thereto for which a civil penalty is not otherwise expressly
8 prescribed by law, shall be liable to the people of the state for a
9 civil penalty of not to exceed [two] FIVE thousand dollars for every
10 such violation.

11 (b) The penalty provided for in paragraph (a) of this subdivision may
12 be increased to an amount not to exceed [five] EIGHT thousand dollars
13 for a subsequent violation if the person committed the same violation,
14 with respect to the same or any other person or persons, within twelve
15 months of the initial violation for which a penalty was assessed pursu-
16 ant to paragraph (a) of this subdivision and said violations were a
17 serious threat to the health and safety of an individual or individuals.

18 (c) The penalty provided for in paragraph (a) of this subdivision may
19 be increased to an amount not to exceed [ten] THIRTEEN thousand dollars
20 if the violation directly results in serious physical harm to any
21 patient or patients.

22 Effective on and after April first, two thousand eight the comptroller
23 is hereby authorized and directed to deposit amounts collected in excess
24 of [two] FIVE thousand dollars per violation to the patient safety
25 center account to be used for purposes of the patient safety center
26 created by title two of article twenty-nine-D of this chapter.

27 S 2. Subdivision 1 of section 12 of the public health law, as amended
28 by chapter 190 of the laws of 1990, is amended to read as follows:

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

LBD16113-02-0

1 1. Any person who violates, disobeys or disregards any term or
2 provision of this chapter or of any lawful notice, order or regulation
3 pursuant thereto for which a civil penalty is not otherwise expressly
4 prescribed by law, shall be liable to the people of the state for a
5 civil penalty of not to exceed [two] FIVE thousand dollars for every
6 such violation.

7 S 3. Paragraph (f) of subdivision 1 of section 309 of the public
8 health law, as amended by chapter 15 of the laws of 1995, is amended to
9 read as follows:

10 (f) prescribe and impose penalties for the violation of or failure to
11 comply with any of its orders or regulations, or any of the regulations
12 of the state sanitary code, not exceeding [one] FIVE thousand dollars
13 for a single violation or failure, to be sued for and recovered by it in
14 any court of competent jurisdiction; and

15 S 4. Subdivisions 1 and 2 of section 373 of the public health law, as
16 amended by chapter 15 of the laws of 1995, are amended to read as
17 follows:

18 1. The sanitary code of a city having a population of less than one
19 hundred seventy-five thousand may provide for specific penalties for any
20 violation thereof not exceeding [one] FIVE thousand dollars for each
21 offense.

22 2. Except where specific penalty is so provided for, any person who
23 violates or who fails to comply with any provision of the sanitary code,
24 or of any rule, regulation, order or special direction duly made there-
25 under or authorized by this article, shall forfeit and pay to the city a
26 penalty not to exceed [one] FIVE thousand dollars for each and every
27 offense.

28 S 5. Nothing in this act shall be construed as requiring any local
29 board of health or city to increase any maximum penalty provided in
30 local law or regulation, or to assess any penalty at a higher level than
31 is provided in local law or regulation.

32 S 6. This act shall take effect on the thirtieth day after it shall
33 have become a law, and shall apply to all violations or failures to
34 comply with any code, rule, regulation, order or special direction which
35 occur on or after such date; provided, however, that the amendments to
36 subdivision 1 of section 12 of the public health law made by section one
37 of this act shall be subject to the expiration and reversion of such
38 subdivision pursuant to section 32 of part A of chapter 58 of the laws
39 of 2008, as amended, when upon such date the provisions of section two
40 of this act shall take effect.