STATE OF NEW YORK

8213--A

2023-2024 Regular Sessions

IN ASSEMBLY

October 27, 2023

Introduced by M. of A. KELLES, LEE, EPSTEIN, LEVENBERG, SHIMSKY, SIMON -- read once and referred to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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~~

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

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~~state~~] 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. Section 83 of the state finance law is amended by adding a new subdivision (k) to read as follows:

(k) All moneys, revenue, and interest thereon received and collected pursuant to titles nineteen, twenty-one and twenty-seven of article seventy-one of the environmental conservation law, and pursuant to section 71-0211 of the environmental conservation law, other than those amounts prescribed by law to be directed into other funds, shall be deposited in a special account within the conservation fund to be known as the conservation enforcement account. All of such moneys, revenues and interest shall be available to the department of environmental conservation, pursuant to appropriation, exclusively for funding the enforcement of the environmental conservation law, including funding for scientists, environmental law enforcement officers, attorneys, administrative support, and such other expenses the commissioner deems necessary for such enforcement. Such money shall be used to supplement and not supplant funding for the enforcement of the environmental conservation law as of the effective date of this subdivision.

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

1. Whenever proceedings result in a conviction for an offense under this chapter there shall be levied, in addition to any sentence required or permitted by law, the following mandatory surcharges: (a) in the amount of twenty-five dollars for violations of sportfishing regulations set forth in 6 NYCRR 10; (b) in the amount of [~~seventy-five dollars~~] one hundred twelve dollars and fifty cents for all other offenses under this chapter provided, however, that convictions for offenses under articles seventeen, nineteen or twenty-seven of this chapter shall be subject to a mandatory surcharge equal to the greater of [~~seventy-five dollars~~] one hundred twelve dollars and fifty cents or [~~six~~] nine percent of any penalty or fine imposed. The mandatory surcharge shall be paid to the clerk of the court who shall remit such mandatory surcharge to the state comptroller provided, however, that in cases where the conviction was rendered by a town or a village justice court, the clerk of such court shall pay twenty-five dollars of such surcharge to the chief fiscal officer of the town or village in the case of surcharges resulting from paragraph (b) of this subdivision and ten dollars in the case of surcharges resulting from paragraph (a) of this subdivision and shall pay the remaining amounts of such mandatory surcharges to the state comptroller in the same manner as provided in section 71-0211 of this article. The comptroller shall pay such monies into the state treasury to the [~~credit of 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.

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

§ 71-0301. Summary abatement.

Notwithstanding any inconsistent provisions of law, whenever the commissioner finds, after investigation, that any person is causing, engaging in or maintaining a condition or activity which, in [~~his~~] the judgment of the commissioner, presents an imminent danger to the health or welfare of the people of the state or results in or is likely to result in irreversible or irreparable damage to natural resources, and

relates to the prevention and abatement powers of the commissioner and it therefore appears to be prejudicial to the interests of the people of the state to delay action until an opportunity for a hearing can be provided, the commissioner may, without prior hearing, order such person by notice, in writing wherever practicable or in such other form as in the commissioner's judgment will reasonably notify such person whose practices are intended to be proscribed, to discontinue, abate or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate or alleviate such condition or activity. As promptly as possible thereafter, not to exceed fifteen days, the commissioner shall provide the person an opportunity to be heard and to present proof that such condition or activity does not violate the provisions of this section. The commissioner shall adopt any other appropriate rules and regulations prescribing the procedure to be followed in the issuance of such orders. Any person who violates any of the provisions of, or who fails to perform any duty imposed by this section, or any rule, regulation or order promulgated by the commissioner hereunder, shall be liable to a civil penalty of not more than [~~twenty-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. Penalties and injunctive relief provided herein shall be recoverable in an action brought by the attorney general at the request and in the name of the commissioner.

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

3. Moneys received by a town justice or a village justice in any action for a penalty brought under the provisions of this chapter listed in section 71-0501 of titles 5 through 15 inclusive and title 33 or upon the settlement or compromise thereof, or a fine for a violation 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 to the State Comptroller as provided in section 27 of the Town Law and section 4-410 of the village law. From the moneys so received, the State Comptroller shall pay all lawful fees for services rendered in such actions when instituted by order of the department or 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. The balance of such moneys arising from penalties under articles 11 or 13 or title 9 of this article or upon the settlement or compromise thereof or from fines for violations of any of the provisions of articles 11 or 13 or title 9 of this article after the payment of lawful fees shall be credited by the Comptroller to the conservation fund. The Comptroller shall adjust and settle [~~his~~] **their** account with the conservation fund in the manner provided by section 99-a of the State Finance Law. The balance of all other such moneys after payment of lawful fees shall be credited by the Comptroller 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**.

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

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

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

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

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

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

b. Any nursery grower licensed pursuant to article fourteen of the agriculture and markets law, any person who owns or operates a public vessel as such term is defined in paragraph (a) of subdivision six of section two of the navigation law, or any person who owns or operates a commercial fishing vessel who transports, sells, imports or introduces invasive species in violation of the regulations promulgated pursuant to section 9-1709 of this chapter, shall be subject to a fine of not less than [~~six~~] nine hundred dollars upon the first penalty. Upon the second penalty such person shall be subject to a fine of not less than [~~two~~] three thousand dollars. Upon a subsequent penalty and after a hearing or opportunity to be heard upon due notice the following penalties may apply: (i) such nursery grower may be subject to the revocation proce-

dures of section one hundred sixty-three-c of the agriculture and markets law (ii) such person's vessel registration may be suspended or (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~~] **such agent or employee** 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 such fine and imprisonment and, in addition thereto, by a civil penalty of not more than [~~five thousand~~] **seven thousand five hundred** dollars.

2. A subcontractor, employee or agent of such person or public corporation, or of a state department who knowingly and intentionally acts, or a prime contractor of such person, public corporation or state department who acts with or without an intention to violate the provisions of title 5 of article 15, in disregard of specifications provided in a construction contract protecting against stream damage, shall be guilty of a violation punishable by a fine of not less than [~~twenty-five~~] **thirty-seven** dollars **and fifty cents**, nor 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, by a civil penalty of not more than [~~five thousand~~] **seven thousand five hundred** dollars.

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

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

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

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

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

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

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

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

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

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

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

Any person violating the provisions of section 15-1525 shall be guilty of a violation punishable by a fine of not more than one thousand **five hundred** dollars, and in addition thereto, shall be liable for a civil penalty of not more than [~~fifteen hundred~~] **two thousand two hundred fifty** dollars.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Any person who violates any of the provisions of, or who fails to perform any duty imposed by article 15 except section 15-1713, or who violates or who fails to comply with any rule, regulation, determination or order of the department heretofore or hereafter promulgated pursuant

to article 15 except section 15-1713, or any condition of a permit issued pursuant to article 15 of this chapter, or any determination or order of the former water resources commission or the department heretofore 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 not to exceed one thousand dollars for each day during which such violation continues or by imprisonment for a term of not more than one year, or by both such fine and imprisonment. If the conviction is for a subsequent offense committed after a first conviction of such person under this subdivision, punishment shall be by a fine not to exceed [~~eight~~] **twelve** thousand dollars for each day during which such violation continues or by imprisonment for a term of not more than one year, or by both such fine and imprisonment.

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

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

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

§ 71-1711. Willful violation of health laws.

1. A person who willfully violates or refuses or omits to comply with any lawful order or regulation prescribed by any local board of health or local health officer, is guilty of a misdemeanor; except, however, that where such order or regulation applies to a tenant with respect to [~~his~~] **such tenant's** own dwelling unit or to an owner occupied one or two family dwelling, such person is guilty of an offense for the first violation punishable by a fine not to exceed [~~fifty~~] **seventy-five** dollars and for a second or subsequent violation is guilty of a misdemeanor punishable by a fine not to exceed [~~five~~] **seven** hundred **fifty** dollars or by imprisonment not to exceed six months or by both such fine and imprisonment.

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

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

§ 71-1725. Assessment of Penalties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. A person who violates any of the provisions of, or who fails to perform any duty imposed by titles 1 through 11 inclusive and title 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 liable to a penalty of not to exceed [~~thirty-seven thousand five hundred~~] **fifty-six thousand two hundred fifty** dollars per day for each violation, and, in addition thereto, such person may be

enjoined from continuing such violation as hereinafter provided. Violation of a permit condition shall constitute grounds for revocation of such permit, which revocation may be accomplished either as provided in paragraph f of subdivision 4 of section 17-0303 or by order of judgment 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 any combination of the foregoing clauses, such owner or person shall be liable for a penalty of not more than [~~three thousand seven hundred fifty~~] **five thousand six hundred twenty-five** dollars for an initial incident resulting in or contributing to such a contravention and for an additional penalty not to exceed [~~seven hundred fifty~~] **one thousand one hundred twenty-five** dollars for each day during which such contravention or contribution thereto continues, and in addition shall be liable to the people of the state of New York for the actual costs incurred by or on behalf of the people of the state for the removal or neutralization of such liquid and for any and all reasonable measures taken or attempted to reduce, limit or diminish the extent or effect of such contravention.

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

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

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

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

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

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

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

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

1. Except as provided in section 71-2113, any person who violates any provision of article nineteen or any code, rule or regulation which was promulgated pursuant thereto; or any order except an order directing such person to pay a penalty by a specified date issued by the commissioner pursuant thereto, shall be liable, in the case of a first violation, for a penalty not less than [~~five~~] **seven** hundred **fifty**

dollars nor more than [~~eighteen~~] **twenty-seven** thousand dollars for said violation and an additional penalty of not to exceed [~~fifteen thousand~~] **twenty thousand five hundred** dollars for each day during which such violation continues. In the case of a second or any further violation, the liability shall be for a penalty not to exceed [~~twenty-six~~] **thirty-nine** thousand dollars for said violation and an additional penalty not to exceed [~~twenty-two thousand five hundred~~] **thirty-three thousand seven hundred fifty** dollars for each day during which such violation continues. In addition thereto, such person may be enjoined from continuing such violation as hereinafter provided.

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

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

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

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

Any person who violates any of the provisions of any regulation promulgated by the commissioner under authority of paragraph y of subdivision one of section 3-0301 shall be liable for a civil penalty of not more than [~~twenty-five~~] **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 persons may be enjoined from continuing such violation. Penalties and injunctive relief provided herein shall be recoverable in an action brought by the attorney general at the request and in the name of the commissioner.

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

§ 71-2113. Violations of section 19-0304 of article 19 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 section 19-0304 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 article 19 of this chapter concerning a violation of section 19-0304 of this chapter shall be liable in the case of a first violation, for a civil penalty not to exceed [~~thirty-seven thousand five hundred~~] **fifty-six thousand two hundred fifty** dollars and an additional penalty of not more than [~~thirty-seven thousand five hundred~~] **fifty-six thousand two hundred fifty** 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 article, or by the court in any action or proceeding pursuant to section 71-2107 of this title, and, in addition thereto, such person 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 [~~seventy-five~~] **one hundred twelve** thousand **five hundred** dollars for each such violation and an additional penalty not to exceed seventy-five thousand dollars for each day 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 section 19-0304 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 article 19 of this chapter concerning a violation of section 19-0304 of this chapter 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.

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

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

Administrative and civil sanctions. 1. Any person who violates any of the provisions of, or who fails to perform any duty imposed by title 23 of article 23 except the duty to accept used oil pursuant to section 23-2307 or any person subject to section 23-2308 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 section shall be liable for a civil penalty not to exceed one thousand **five hundred** 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, to be assessed by the commissioner after a hearing or opportunity to be heard pursuant to the provisions of section 71-1709 of this chapter, and, in addition thereto, such person 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.

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

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

4. Notwithstanding any other provision of law, any person who shall violate the provisions of paragraph [~~(c)~~] **c** of subdivision one of section 23-2307 or paragraph [~~(d)~~] **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~~] **such person** 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-s 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 distinct offense and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

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

§ 71-2505. Enforcement.

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

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

1. Civil and administrative sanctions. a. Any person who violates any of the provisions of, or who fails to perform any duty imposed by title 3 or 7 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 for a civil penalty not to exceed [~~seven thousand five hundred~~] **eleven thousand two hundred fifty** dollars for each such violation and an additional penalty of not more than [~~one thousand five hundred~~] **two thousand two hundred fifty** 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 article, or by the court in any action or proceeding pursuant to section 71-2727 of this title, and, in addition thereto, such person 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.

b. i. Any person who violates any of the provisions of, or who fails to perform any duty imposed by, title 3 or 7 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 and thereby causes the release of solid waste into the environment, shall be liable for a civil penalty not to exceed [~~eleven thousand two hundred fifty~~] **sixteen thousand eight hundred seventy-five** dollars for each such violation and an additional penalty of not more than [~~eleven thousand~~

~~two hundred fifty~~] sixteen thousand eight hundred seventy-five 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 article, or by the court in any action or proceeding pursuant to section 71-2727 of this title, and, in addition thereto, such person 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.

ii. Any person who violates any of the provisions of, or who fails to perform any duty imposed by, title 3 or 7 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 and thereby causes the release of more than ten cubic yards of solid waste into the environment, shall be liable for a civil penalty not to exceed [~~twenty-two thousand five hundred~~] thirty-three thousand seven hundred fifty dollars for each such violation and an additional penalty of not more than [~~twenty-two thousand five hundred~~] thirty-three thousand seven hundred fifty 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 article, or by the court in any action or proceeding pursuant to section 71-2727 of this title, and, in addition thereto, such person 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.

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

2. Criminal sanctions. a. 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 title 3 or 7 of article 27 of this chapter, or any rules and regulations promulgated 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 of not less than [~~one thousand five hundred~~] two thousand two hundred fifty dollars nor more than [~~fifteen~~] twenty-two thousand five hundred dollars per day of violation or by imprisonment for not more than fifteen days or by both such fine and imprisonment.

b. i. Any person who shall violate paragraph a of this subdivision and thereby causes or attempts to cause the release of more than ten cubic yards of solid waste into the environment shall be guilty of a class B 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 per day nor more than [~~twenty-two thousand five hundred~~] thirty-three thousand seven hundred fifty dollars per day of violation, or by imprisonment for a term in accordance with the penal law, or by both such fine and imprisonment.

ii. Any person who shall violate paragraph a of this subdivision and thereby causes or attempts to cause the release of more than ten cubic yards of solid waste into the environment, after having been convicted of a violation of this subdivision within the preceding five years, shall be guilty of a class 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 per day 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 in accordance with the penal law, or by both such fine and imprisonment.

c. i. Any person who shall violate paragraph a of this subdivision and thereby causes or attempts to cause the release of more than seventy cubic yards of solid waste into the environment shall be guilty of a class 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 per day 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 in accordance with the penal law, or by both such fine and imprisonment.

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

3. Additional sanctions. Any person who violates any of the provisions of, or who fails to perform any duty imposed by title 7 of article 27, with regard to the construction and operation of facilities for the disposal of construction and demolition debris 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 for a civil penalty not to exceed [~~fifteen~~] twenty-two thousand five hundred dollars and each day of such deposition shall constitute a separate violation and said civil penalty is in addition to any other fines or penalties which may be applied pursuant to this title.

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

§ 71-2705. Violations of titles 9, 11 and 13 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 titles 9, 11 and 13 of article 27 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 [~~thirty-seven thousand five hundred~~] fifty-six thousand two hundred fifty dollars and an additional penalty of not more than [~~thirty-seven thousand five hundred~~] fifty-six thousand two hundred fifty 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 article, or by the court in any action or proceeding pursuant to section 71-2727 of this title, and, in addition thereto, such person 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 [~~seventy-five~~] one hundred twelve thousand five hundred dollars for each such violation and an additional penalty not to exceed [~~seventy-five~~] one hundred twelve thousand five hundred dollars for each day 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, 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, and subdivision 5 as added by chapter 152 of the laws of 1990, 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, or a local adjudicatory body pursuant to subdivision four of this section, shall be paid into an environmental fund of such city or locality.

§ 52. Subdivisions 1 and 2 of section 71-2724 of the environmental conservation law, as amended by chapter 30 of the laws of 2020, are amended to read as follows:

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

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

§ 53. Subdivision 1 of section 71-2728 of the environmental conservation law, as added by chapter 641 of the laws of 2008, is amended to read as follows:

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

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

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

1. a. Any consumer, as defined in title twenty-six of article twenty-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.

§ 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~~] **seven** thousand **five hundred** dollars for a first violation, and not to exceed [~~ten~~] **fifteen** thousand dollars for a subsequent offense, to be assessed by the commissioner after a hearing or opportunity to be heard. Notwithstanding any provision of law to the contrary, an owner or owner's agent of a multiple dwelling or owner, owner's agent or a person in a position of authority for all other types of premises, as such terms are defined in paragraph d of subdivision five of section 33-0905 of this chapter, who violates any provision of a local law adopted pursuant to subdivision one of section 33-1004 of this chapter relating to paragraph b of such subdivision, and a person, who violates any provision of a local law adopted pursuant to subdivision one of section 33-1004 of this chapter relating to paragraph c of such subdivision, and

a person who violates the provisions of subdivision three of section three hundred ninety-c of the social services law shall, for a first such violation, in lieu of a penalty, be issued a written warning and shall also be issued educational materials pursuant to subdivision two of section 33-1005 of this chapter. Such person shall, however, for a second violation, be liable to the people of the state for a civil penalty not to exceed one hundred **fifty** dollars, and not to exceed [~~two hundred fifty~~] **three hundred seventy-five** dollars for any subsequent violation, such penalties to be assessed by the commissioner after a hearing or opportunity to be heard.

Notwithstanding any provision of law to the contrary, any person who violates the provisions of a local law adopted pursuant to subdivision one of section 33-1004 of this chapter relating to paragraph a of such subdivision, shall be issued a warning for the first violation and shall be provided seven days to correct such violation; and shall be liable to the people of the state for a civil penalty not to exceed one hundred **fifty** dollars for a second violation, and not to exceed [~~two hundred fifty~~] **three hundred seventy-five** dollars for a subsequent violation, 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. Any civil penalty assessed by the commissioner under this subdivision shall be reviewable in a proceeding under article 78 of the civil practice law and rules.

3. Criminal sanctions. Any person who, having the culpable mental states defined in subdivision one or two of section 15.05 or in section 20.20 of the penal law, violates any provision of article 33 of this chapter or any rule, regulation thereunder or commits any offense described in section 33-1301 of this chapter, except an offense relating to the application of a general use pesticide shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed [~~five~~] **seven** thousand **five hundred** dollars for each day during which such violation continues or by imprisonment for a term of not more than one year, or by both such fine and imprisonment. If the conviction is for a subsequent offense committed after a first conviction of such person under this subdivision, punishment shall be by a fine not to exceed [~~ten~~] **fifteen** thousand dollars for each day during which such violation continues or by imprisonment for a term of not more than one year, or by both such fine and imprisonment. When a violation consists of the manufacture or production of any prohibited article, each day during which or any part of which such manufacture or production is carried on or continued, shall be deemed a separate violation. Any person who violates any provision of article 33 of this chapter or any rule or regulation thereunder or commits any offense described in section 33-1301 of this chapter relating to the use of a general use pesticide shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine not to exceed [~~twenty-five hundred~~] **three thousand seven hundred fifty** dollars. If the conviction is for a subsequent offense committed after the first such conviction of such person under this subdivision, punishment shall be by a fine not to exceed [~~five~~] **seven** thousand **five hundred** dollars. Prose-

cution hereunder may be conducted by either the attorney general or the district attorney consistent with section 71-0403 of this article. With respect to violations of section 33-1004 of this chapter, penalties imposed pursuant to this subdivision may be assessed only against a person providing a commercial lawn application.

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

§ 71-3103. Enforcement of article 35.

Any person who violates any of the provisions of, or who fails to perform any duties imposed by article 35 or any regulation promulgated by the commissioner thereunder, shall be liable to a civil penalty of not more than [~~twenty-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. Penalties and injunctive relief provided herein shall be recoverable in an action brought by the Attorney General at the request and in the name of the commissioner.

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

1. Any person who violates any provision of, or fails to perform any duty imposed by article forty-three 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 Lake George park commission made pursuant to article forty-three of this chapter shall be liable for a civil penalty not to exceed [~~five~~] **seven** hundred **fifty** dollars for each such violation and an additional penalty of [~~five~~] **seven** hundred **fifty** dollars for each day during which such violation continues, to be assessed by the Lake George park commission after an opportunity to be heard, or by the court in any action or proceeding initiated by the attorney general in the name of the Lake George park commission. In addition thereto, such person 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 based upon such violation.

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

§ 71-3307. 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 article forty-three of this 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 to exceed [~~two thousand five hundred~~] **three thousand seven hundred fifty** dollars for each day during which such violation continues.

5. Any person who violates any of the provisions of or who fails to perform any duty imposed by sections 37-1003 and 37-1007 of this chapter 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.

6. Any person who violates any of the provisions of, or who fails to perform any duty imposed by section 37-0121 of this chapter 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.

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

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

Any person who violates any of the provisions of, or who fails to perform any duty imposed by article thirty-eight or any regulation promulgated by the commissioner thereunder, shall be liable to a civil penalty of not more than [~~twenty-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. Penalties and injunctive relief provided herein shall be recoverable in an action brought by the attorney general acting alone or at the request of the commissioner.

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

§ 71-3903. Violations; penalties.

1. Administrative sanctions. Any person who violates, disobeys or disregards any provision of article thirty-nine shall be liable to the people of the state for a civil penalty of not to exceed [~~three~~] **four** thousand **five hundred** dollars for every such violation, to be assessed by the commissioner after a hearing or opportunity to be heard. 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 [~~comprised~~] **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 [~~comprised~~] **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 power, following a hearing, to direct the violator to cease [~~his~~] **their** violation of article thirty-nine and, where appropriate, to recall any sewage system cleaners or additives sold or distributed in violation of said article. Any such order of the commissioner shall be enforceable in an 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 commenced within thirty days of such penalty or order.

2. Criminal sanctions. Any person who knowingly violates any provision of section 39-0105 of this chapter shall, in addition to the sanctions provided in subdivision one of this section, for the first offense, be guilty of a violation punishable by a fine of not less than [~~five~~] **seven** hundred **fifty** nor more than one thousand **five hundred** dollars; for a second and each subsequent offense [~~he~~] **such person** shall be guilty of a misdemeanor punishable by a fine of not less than one thousand **five hundred** nor more than [~~three~~] **four** thousand **five hundred** dollars or a

term of imprisonment of not more than six months or both. In addition to or instead of these sanctions, any offender shall be punishable by being ordered by the court to recall any sewage system cleaners or additives sold or distributed in violation of article thirty-nine. The court shall specify a reasonable time for the completion of the recall. 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.

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

§ 71-3905. Enforcement.

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

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

§ 71-4001. General criminal penalty.

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

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

§ 71-4003. General civil penalty.

Except as otherwise specifically provided elsewhere in this chapter, a person who violates any provision of this chapter, or any rule, regulation or order promulgated pursuant thereto, or the terms or conditions of any permit issued thereunder, shall be liable to a civil penalty of not more than one thousand **five hundred** dollars, and an additional civil penalty of not more than one thousand **five hundred** dollars for each day during which each such violation continues. Any civil penalty provided for by this chapter may be assessed following a hearing or opportunity to be heard.

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

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

Any person who violates any of the provisions of article seventy-two of this chapter or the regulations promulgated thereunder shall be liable for a civil penalty of up to one thousand **five hundred** dollars in addition to any amount assessed as a penalty pursuant to subdivision five of section 72-0201 of this chapter, except that any person who

fails to pay fees required pursuant to section 72-0303 of this chapter shall be subject to penalty provisions pursuant to subdivision twelve of section 72-0201 of this chapter.

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

§ 71-4303. Violations of article forty 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, article forty of this chapter or any rule or regulation promulgated thereunder, or any terms or conditions 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 civil penalty not to exceed twenty-five thousand dollars and an additional penalty of not more than twenty-five thousand 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 article or by a court in any action or proceeding pursuant to this title, and, in addition thereto such person may by similar process be enjoined from continuing such violation. In addition, upon the provision of notice stating the grounds for its action and giving an opportunity for hearing, the commissioner may revoke, suspend or deny a certificate or a renewal of a certificate issued pursuant to article forty of this chapter. In the case of a second violation, the liability shall be for a civil penalty not to exceed [~~fifty~~] **seventy-five** thousand dollars for 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. 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 article forty of this chapter or any rules or 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 [~~twenty-five~~] **thirty-seven** thousand **five hundred** 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 not to exceed [~~fifty~~] **seventy-five** thousand dollars per day of violation, or by imprisonment for not more than two years or by both such fine and imprisonment.

§ 68. Section 71-4402 of the environmental conservation law, as added 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;

(b) one hundred thousand dollars for a class E felony;

(c) [~~fifty~~] **seventy-five** thousand dollars for a class A misdemeanor;

(d) [~~fifteen~~] **twenty-two** thousand **five hundred** dollars for a class B misdemeanor; or

(e) double the amount of the defendant's gain from the commission of the crime.

§ 70. This act shall take effect immediately.