

STATE OF NEW YORK

7086--A

2023-2024 Regular Sessions

IN SENATE

May 17, 2023

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- 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:

- 1 Section 1. Subdivisions 1 and 2 of section 71-0211 of the environ-
2 mental conservation law, subdivision 1 as amended by chapter 60 of the
3 laws of 1993, subdivision 2 as amended by chapter 460 of the laws of
4 1991, are amended to read as follows:
- 5 1. Notwithstanding any other provisions of law to the contrary, all
6 fines and penalties collected pursuant to title nineteen of this arti-
7 cle, except amounts required to be paid into the conservation fund
8 pursuant to subdivision two of section 71-1929 of such title; title
9 twenty-one of this article; title twenty-seven of this article, except
10 amounts required to be paid into the hazardous waste remedial fund
11 pursuant to subdivision two of section 71-2725 of such title; and title
12 forty-one of this article shall be paid into the [~~general fund to the~~
13 ~~credit of the state purposes account~~] conservation fund to the credit of
14 the conservation enforcement account established pursuant to subdivision
15 (k) of section eighty-three of the state finance law.
- 16 2. Unless otherwise provided in this chapter, not later than the tenth
17 day of each month, all fines, penalties and forfeitures collected for
18 violations of this chapter or rules, regulations, local laws or ordi-
19 nances adopted thereunder under judgment of any town or village court,
20 shall be paid over by such court to the comptroller of the state, with a
21 statement accompanying the same, setting forth the action or proceeding

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

LBD11358-02-4

1 in which such moneys were collected, the name and residence of the
2 defendant, the nature of the offense, and the fines and penalty imposed.
3 The comptroller shall pay these funds into the [~~general fund of the~~
4 ~~state~~] conservation fund to the credit of the conservation enforcement
5 account established pursuant to subdivision (k) of section eighty-three
6 of the state finance law.

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

9 (k) All moneys, revenue, and interest thereon received and collected
10 pursuant to titles nineteen, twenty-one and twenty-seven of article
11 seventy-one of the environmental conservation law, and pursuant to
12 section 71-0211 of the environmental conservation law, other than those
13 amounts prescribed by law to be directed into other funds, shall be
14 deposited in a special account within the conservation fund to be known
15 as the conservation enforcement account. All of such moneys, revenues
16 and interest shall be available to the department of environmental
17 conservation, pursuant to appropriation, exclusively for funding the
18 enforcement of the environmental conservation law, including funding for
19 scientists, environmental law enforcement officers, attorneys, adminis-
20 trative support, and such other expenses the commissioner deems neces-
21 sary for such enforcement. Such money shall be used to supplement and
22 not supplant funding for the enforcement of the environmental conserva-
23 tion law as of the effective date of this subdivision.

24 § 3. Subdivision 1 of section 71-0213 of the environmental conserva-
25 tion law, as added by section 1 of part DDD of chapter 59 of the laws of
26 2009, is amended to read as follows:

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

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

53 § 71-0301. Summary abatement.

54 Notwithstanding any inconsistent provisions of law, whenever the
55 commissioner finds, after investigation, that any person is causing,
56 engaging in or maintaining a condition or activity which, in [~~his~~] the

1 judgment of the commissioner, presents an imminent danger to the health
2 or welfare of the people of the state or results in or is likely to
3 result in irreversible or irreparable damage to natural resources, and
4 relates to the prevention and abatement powers of the commissioner and
5 it therefore appears to be prejudicial to the interests of the people of
6 the state to delay action until an opportunity for a hearing can be
7 provided, the commissioner may, without prior hearing, order such person
8 by notice, in writing wherever practicable or in such other form as in
9 the commissioner's judgment will reasonably notify such person whose
10 practices are intended to be proscribed, to discontinue, abate or alle-
11 viate such condition or activity, and thereupon such person shall imme-
12 diately discontinue, abate or alleviate such condition or activity. As
13 promptly as possible thereafter, not to exceed fifteen days, the commis-
14 sioner shall provide the person an opportunity to be heard and to pres-
15 ent proof that such condition or activity does not violate the
16 provisions of this section. The commissioner shall adopt any other
17 appropriate rules and regulations prescribing the procedure to be
18 followed in the issuance of such orders. Any person who violates any of
19 the provisions of, or who fails to perform any duty imposed by this
20 section, or any rule, regulation or order promulgated by the commis-
21 sioner hereunder, shall be liable to a civil penalty of not more than [~~twen-~~
22 ~~ty-five hundred~~] three thousand seven hundred fifty dollars for each
23 such violation and an additional penalty of not more than [~~five~~] seven
24 hundred fifty dollars for each day during which such violation contin-
25 ues, and, in addition thereto, such person may be enjoined from continu-
26 ing such violation. Penalties and injunctive relief provided herein
27 shall be recoverable in an action brought by the attorney general at the
28 request and in the name of the commissioner.

29 § 5. Subdivisions 3 and 4 of section 71-0507 of the environmental
30 conservation law, subdivision 3 as amended by chapter 400 of the laws of
31 1973, are amended to read as follows:

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

1 4. All moneys received by any other person or court in an action for a
2 penalty brought under the provisions of this chapter listed in section
3 71-0501 and titles 5 through 15 inclusive and title 33 of this article
4 or upon the settlement or compromise thereof, or a fine for a violation
5 of the provisions of this chapter listed in section 71-0501 and titles 5
6 through 15 inclusive and title 33 of this article, shall be paid by such
7 person or court to the department within thirty days after receipt ther-
8 eof. The department shall pay the expenses of collection and the lawful
9 fees of magistrates and constables for services performed in criminal
10 actions brought upon information of a conservation officer, regional and
11 assistant regional conservation officer, special game protector,
12 district ranger, forest ranger, or member of the state police. Such
13 moneys derived from fines or penalties for violations of articles 11 or
14 13 or title 9 of this article or from the settlement or compromise ther-
15 eof shall be paid by the department to the Commissioner of Taxation and
16 Finance and credited to the conservation fund. All other moneys so
17 received by the department shall be paid to the Commissioner of Taxation
18 and Finance and credited to the [~~general fund~~] conservation fund to the
19 credit of the conservation enforcement account established pursuant to
20 subdivision (k) of section eighty-three of the state finance law.

21 § 6. Subdivisions 1, 2, 6, 9 and 10 of section 71-0703 of the environ-
22 mental conservation law, subdivisions 1, 2 and 6 as amended by chapter
23 602 of the laws of 2003, subdivision 9 as added by chapter 267 of the
24 laws of 2012 and subdivision 10 as added by chapter 330 of the laws of
25 2014, are amended to read as follows:

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

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

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

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

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

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

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

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

51 With respect to the penalty for violation of subdivision 4 of section
52 9-1105 of this chapter, the owner and every person engaged in such
53 cutting shall be liable therefor; however, the liability for penalty
54 shall not arise until the expiration of twenty days after service,
55 personally or by mail upon the alleged violator at [~~his~~] their last

1 known place of residence of a written notice of failure to comply with
2 the requirements of subdivision 4 of section 9-1105 of this chapter.

3 6. (a) In addition to any other penalty provided by law, any person
4 who violates subdivision 1 of section 9-0303 of this chapter shall be
5 liable to a civil penalty of [~~two hundred fifty~~] three hundred seventy-
6 five dollars per tree or treble damages, based on the stumpage value of
7 such tree or both. Where the order or decision finds that the defendant
8 established by clear and convincing evidence, that when such defendant
9 committed the violation, [~~he or she~~] they had cause to believe that the
10 land was [~~his or her~~] their own, or that [~~he or she~~] such defendant had
11 an easement or right of way across such land which permitted such
12 action, damages shall be awarded on the basis of the stumpage value of
13 such tree or trees in the market as if they were privately owned.
14 Notwithstanding the foregoing, this section shall not be construed to
15 authorize the cutting of timber or removal of trees where such action
16 would otherwise be violative of any provision of the state constitution
17 or law.

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

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

41 9. a. Any person who transports, sells, imports or introduces invasive
42 species, in violation of the regulations promulgated pursuant to section
43 9-1709 of this chapter shall be subject to the following:

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

50 b. Any nursery grower licensed pursuant to article fourteen of the
51 agriculture and markets law, any person who owns or operates a public
52 vessel as such term is defined in paragraph (a) of subdivision six of
53 section two of the navigation law, or any person who owns or operates a
54 commercial fishing vessel who transports, sells, imports or introduces
55 invasive species in violation of the regulations promulgated pursuant to
56 section 9-1709 of this chapter, shall be subject to a fine of not less

1 than [~~six~~] nine hundred dollars upon the first penalty. Upon the second
2 penalty such person shall be subject to a fine of not less than [~~two~~]
3 three thousand dollars. Upon a subsequent penalty and after a hearing or
4 opportunity to be heard upon due notice the following penalties may
5 apply: (i) such nursery grower may be subject to the revocation proce-
6 dures of section one hundred sixty-three-c of the agriculture and
7 markets law (ii) such person's vessel registration may be suspended or
8 (iii) such person's fishing permit may be revoked by the department.

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

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

23 § 71-0707. Resisting or obstructing departmental agent or employee.

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

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

33 § 71-0709. Injury to state lands.

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

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

42 § 71-0711. Injury to municipal or private lands.

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

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

52 § 71-1105. Enforcement of subdivision 4 of section 15-0313.

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

1 penalty of not more than [~~one thousand eight~~] two thousand seven hundred
2 dollars.

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

6 § 71-1107. Punishment for violations of title 5 of article 15.

7 1. A violation of section 15-0501, 15-0503 or 15-0505, shall consti-
8 tute a misdemeanor, punishable by a fine of not to exceed [~~ten~~] fifteen
9 thousand dollars, or by imprisonment not to exceed one year or by both
10 such fine and imprisonment and, in addition thereto, by a civil penalty
11 of not more than [~~five thousand~~] seven thousand five hundred dollars.

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

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

27 § 71-1109. Enforcement of subdivisions 1 and 4 of section 15-0507.

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

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

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

43 § 71-1111. Enforcement of subdivision 3 of section 15-0511.

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

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

54 2. Any person who violates the provisions of section 15-1506 of this
55 chapter or the rules, regulations, orders or determinations of the
56 commissioner promulgated thereto or the terms of any permit issued ther-

1 eunder, shall be liable for a civil penalty not less than [~~twenty-five~~]
2 three thousand seven hundred fifty dollars nor more than [~~ten~~] fifteen
3 thousand dollars per day of such violation.

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

7 § 71-1115. Enforcement of section 15-1525.

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

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

16 1. Any person or public corporation violating subdivision 1 of section
17 15-1745, shall be guilty of a violation punishable by a fine of not more
18 than [~~five-thousand~~] seven thousand five hundred dollars.

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

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

28 § 71-1121. Enforcement of subdivision 2 of section 15-1947.

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

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

36 § 71-1123. Enforcement of section 15-2133.

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

42 2. Any person violating the provisions of subdivision 3 of section
43 15-2133 shall be guilty of a violation punishable by a fine of not more
44 than one thousand five hundred dollars, and in addition thereto, shall
45 be liable for a civil penalty of not more than [~~fifteen-hundred~~] two
46 thousand two hundred fifty dollars.

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

50 § 71-1125. Enforcement of section 15-2315.

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

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

4 1. Any person who violates any of the provisions of, or who fails to
5 perform any duty imposed by article 15 except section 15-1713, or who
6 violates or who fails to comply with any rule, regulation, determination
7 or order of the department heretofore or hereafter promulgated pursuant
8 to article 15 except section 15-1713, or any condition of a permit
9 issued pursuant to article 15 of this chapter, or any determination or
10 order of the former water resources commission or the department hereto-
11 fore promulgated pursuant to former article 5 of the Conservation Law,
12 shall be liable for a civil penalty of not more than [~~two thousand five~~
13 three thousand seven hundred fifty dollars for such violation and an
14 additional civil penalty of not more than [~~five~~ seven hundred fifty
15 dollars for each day during which such violation continues, and, in
16 addition thereto, such person may be enjoined from continuing such
17 violation as otherwise provided in article 15 except section 15-1713.

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

20 § 71-1131. Violations; criminal liability.

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

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

28 § 71-1203. Penalties.

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

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

37 1. Administrative sanctions. Any person who violates any provision of
38 article 23 of this chapter or commits any offense described in section
39 71-1305 of this title shall be liable to the people of the state for a
40 civil penalty not to exceed [~~eight~~ twelve thousand dollars and an addi-
41 tional penalty of [~~two~~ three thousand dollars for each day during which
42 such violation continues, to be assessed by the commissioner after a
43 hearing or opportunity to be heard. The commissioner, acting by the
44 attorney general, may bring suit for collection of such assessed civil
45 penalty in any court of competent jurisdiction. Such civil penalty may
46 be released or compromised by the commissioner before the matter has
47 been referred to the attorney general; and where such matter has been
48 referred to the attorney general, any such penalty may be released or
49 compromised and any action commenced to recover the same may be settled
50 and discontinued by the attorney general with the consent of the commis-
51 sioner. In addition, the commissioner shall have the power, following a
52 hearing conducted pursuant to rules and regulations adopted by the
53 department, to direct the violator to cease the violation and reclaim
54 and repair the affected site to a condition acceptable to the commis-
55 sioner, to the extent possible within a reasonable time and under the
56 direction and supervision of the commissioner. Any such order of the

1 commissioner shall be enforceable in any action brought by the commis-
2 sioner in any court of competent jurisdiction. Any civil penalty or
3 order issued by the commissioner under this subdivision shall be review-
4 able in a proceeding under article seventy-eight of the civil practice
5 law and rules.

6 3. Criminal sanctions. Any person who, having any of the culpable
7 mental states defined in sections 15.05 and 20.20 of the penal law,
8 violates any provision of article 23 of this chapter or commits any
9 offense described in section 71-1305 of this title shall be guilty of a
10 misdemeanor and, upon conviction thereof, shall be punished by a fine
11 not to exceed one thousand dollars for each day during which such
12 violation continues or by imprisonment for a term of not more than one
13 year, or by both such fine and imprisonment. If the conviction is for a
14 subsequent offense committed after a first conviction of such person
15 under this subdivision, punishment shall be by a fine not to exceed
16 [~~eight~~] twelve thousand dollars for each day during which such violation
17 continues or by imprisonment for a term of not more than one year, or by
18 both such fine and imprisonment.

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

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

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

30 § 71-1711. Willful violation of health laws.

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

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

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

52 § 71-1725. Assessment of Penalties.

53 The commissioner may assess any penalty prescribed for a violation of
54 or a failure to comply with any provision contained in this title or
55 listed in section 71-1701, or any lawful notice, order or regulation
56 prescribed by the commissioner under any such provision, one thousand

1 five hundred dollars for every such violation or failure, which penalty
2 may be assessed after a hearing or an opportunity to be heard.

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

5 § 71-1905. Enforcement of section 17-1705.

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

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

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

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

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

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

28 § 71-1911. Enforcement of section 17-1711.

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

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

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

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

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

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

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

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

55 1. A person who violates any of the provisions of, or who fails to
56 perform any duty imposed by titles 1 through 11 inclusive and title 19

1 of article 17, or the rules, regulations, orders or determinations of
2 the commissioner promulgated thereto or the terms of any permit issued
3 thereunder, shall be liable to a penalty of not to exceed [~~thirty-seven~~
4 ~~thousand-five hundred~~] fifty-six thousand two hundred fifty dollars per
5 day for each violation, and, in addition thereto, such person may be
6 enjoined from continuing such violation as hereinafter provided.
7 Violation of a permit condition shall constitute grounds for revocation
8 of such permit, which revocation may be accomplished either as provided
9 in paragraph f of subdivision 4 of section 17-0303 or by order of judg-
10 ment of the supreme court as an alternate or additional civil penalty in
11 an action brought pursuant to subdivision 3 of this section.

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

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

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

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

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

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

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

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

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

54 1. Except where the owner of or a person in actual or constructive
55 possession or control of more than one thousand one hundred gallons, in
56 bulk, of any liquid including petroleum which, if released, would or

1 would be likely to pollute the lands or waters of the state including
2 the groundwaters thereof can prove that the entry or presence of any
3 part of such liquid onto such lands or into or in such waters causing or
4 contributing to a condition therein in contravention of the standards
5 adopted or deemed adopted by the water pollution control board or any of
6 its legal successors was caused solely by (A) an act of God, (B) an act
7 of war, (C) negligence on the part of the United States or New York
8 State Government or (D) an act or omission of a third party without
9 regard to whether any such act or omission was or was not negligent, or
10 any combination of the foregoing clauses, such owner or person shall be
11 liable for a penalty of not more than [~~three thousand seven hundred~~
12 ~~fifty~~] five thousand six hundred twenty-five dollars for an initial
13 incident resulting in or contributing to such a contravention and for an
14 additional penalty not to exceed [~~seven hundred fifty~~] one thousand one
15 hundred twenty-five dollars for each day during which such contravention
16 or contribution thereto continues, and in addition shall be liable to
17 the people of the state of New York for the actual costs incurred by or
18 on behalf of the people of the state for the removal or neutralization
19 of such liquid and for any and all reasonable measures taken or
20 attempted to reduce, limit or diminish the extent or effect of such
21 contravention.

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

25 § 71-1943. Enforcement of section 17-1743.

26 Any person who fails to so notify the department of such release,
27 discharge or spill into the waters of the state as described in section
28 17-1743 of this chapter shall, upon conviction, be fined not more than
29 [~~three thousand seven hundred fifty~~] five thousand six hundred twenty-
30 five dollars or imprisoned for not more than one year, or both.

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

33 § 71-1945. Enforcement of title 21 of article 17.

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

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

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

1 1. Except as provided in section 71-2113, any person who violates any
2 provision of article nineteen or any code, rule or regulation which was
3 promulgated pursuant thereto; or any order except an order directing
4 such person to pay a penalty by a specified date issued by the commis-
5 sioner pursuant thereto, shall be liable, in the case of a first
6 violation, for a penalty not less than [~~five~~] seven hundred fifty
7 dollars nor more than [~~eighteen~~] twenty-seven thousand dollars for said
8 violation and an additional penalty of not to exceed [~~fifteen thousand~~]
9 twenty thousand five hundred dollars for each day during which such
10 violation continues. In the case of a second or any further violation,
11 the liability shall be for a penalty not to exceed [~~twenty-six~~] thirty-
12 nine thousand dollars for said violation and an additional penalty not
13 to exceed [~~twenty-two thousand five hundred~~] thirty-three thousand seven
14 hundred fifty dollars for each day during which such violation contin-
15 ues. In addition thereto, such person may be enjoined from continuing
16 such violation as hereinafter provided.

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

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

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

36 § 71-2111. Enforcement of air pollution emergency rules and regulations.
37 Any person who violates any of the provisions of any regulation
38 promulgated by the commissioner under authority of paragraph y of subdi-
39 vision one of section 3-0301 shall be liable for a civil penalty of not
40 more than [~~twenty-five~~] three thousand seven hundred fifty dollars for
41 each such violation and an additional penalty of not more than [~~five~~]
42 seven hundred fifty dollars for each day during which such violation
43 continues, and, in addition thereto, such persons may be enjoined from
44 continuing such violation. Penalties and injunctive relief provided
45 herein shall be recoverable in an action brought by the attorney general
46 at the request and in the name of the commissioner.

47 § 43. Section 71-2113 of the environmental conservation law, as added
48 by chapter 942 of the laws of 1984, subdivision 1 as amended by section
49 23 and subdivision 2 as amended by section 24 of part C of chapter 62 of
50 the laws of 2003, is amended to read as follows:

51 § 71-2113. Violations of section 19-0304 of article 19 of this chapter.

52 1. Civil and administrative sanctions. Any person who violates any of
53 the provisions of, or who fails to perform any duty imposed by section
54 19-0304 of this chapter, or any rule or regulation promulgated pursuant
55 thereto, or any term or condition of any certificate or permit issued
56 pursuant thereto, or any final determination or order of the commission-

1 er made pursuant to article 19 of this chapter concerning a violation of
2 section 19-0304 of this chapter shall be liable in the case of a first
3 violation, for a civil penalty not to exceed [~~thirty-seven thousand five~~
4 ~~hundred~~] fifty-six thousand two hundred fifty dollars and an additional
5 penalty of not more than [~~thirty-seven thousand five hundred~~] fifty-six
6 thousand two hundred fifty dollars for each day during which such
7 violation continues, to be assessed by the commissioner after an oppor-
8 tunity to be heard pursuant to the provisions of section 71-1709 of this
9 article, or by the court in any action or proceeding pursuant to section
10 71-2107 of this title, and, in addition thereto, such person may by
11 similar process be enjoined from continuing such violation and any
12 permit or certificate issued to such person may be revoked or suspended
13 or a pending renewal application denied. In the case of a second and any
14 further violation, the liability shall be for a civil penalty not to
15 exceed [~~seventy-five~~] one hundred twelve thousand five hundred dollars
16 for each such violation and an additional penalty not to exceed seven-
17 ty-five thousand dollars for each day during which such violation
18 continues.

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

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

41 § 71-2201. Enforcement of title 23 of article 23 of this chapter.

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

1 certificate issued to such person may be revoked or suspended or a pend-
2 ing renewal application denied.

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

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

9 4. Notwithstanding any other provision of law, any person who shall
10 violate the provisions of paragraph [~~e~~] c of subdivision one of
11 section 23-2307 or paragraph [~~d~~] d of subdivision two of section
12 23-2307 of this chapter shall be liable for a civil penalty of not more
13 than [~~five~~] seven hundred fifty dollars, and an additional civil penalty
14 of not more than [~~five~~] seven hundred fifty dollars for each day during
15 which such violation continues, not to exceed [~~ten~~] fifteen thousand
16 dollars.

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

21 § 71-2303. Violation; penalties.

22 1. Civil sanctions. a. Any person who violates, disobeys or disregards
23 any provision of article twenty-four, including title five and section
24 24-0507 thereof or any rule or regulation, local law or ordinance,
25 permit or order issued pursuant thereto, shall be liable to the people
26 of the state for a civil penalty of not to exceed [~~eleven~~] sixteen thou-
27 sand five hundred dollars for every such violation, to be assessed,
28 after a hearing or opportunity to be heard upon due notice and with the
29 rights to specification of the charges and representation by counsel at
30 such hearing, by the commissioner or local government or in an action
31 initiated by the attorney general pursuant to section 71-2305 of this
32 title or on the attorney general's own initiative. Each violation shall
33 be a separate and distinct violation and, in the case of a continuing
34 violation, each day's continuance thereof shall be deemed a separate and
35 distinct violation. Such penalty assessed by the commissioner or local
36 government may be recovered in an action brought by the attorney general
37 at the request and in the name of the commissioner or local government
38 in any court of competent jurisdiction. Such civil penalty may be
39 released or compromised by the commissioner or local government before
40 the matter has been referred to the attorney general; and where such
41 matter has been referred to the attorney general, any such penalty may
42 be released or compromised and any action commenced to recover the same
43 may be settled and discontinued by the attorney general with the consent
44 of the commissioner or local government. In addition, the commissioner
45 or local government shall have power, following a hearing held in
46 conformance with the procedures set forth in section 71-1709 of this
47 article, to direct the violator to cease violating the act and to
48 restore the affected freshwater wetland to its condition prior to the
49 violation, insofar as that is possible within a reasonable time and
50 under the supervision of the commissioner or local government. Any such
51 order of the commissioner or local government shall be enforceable in an
52 action brought by the attorney general at the request and in the name of
53 the commissioner or local government in any court of competent jurisdic-
54 tion. Any civil penalty or order issued by the commissioner or local
55 government pursuant to this subdivision shall be reviewable in a

1 proceeding pursuant to article seventy-eight of the civil practice law
2 and rules.

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

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

31 3. All fines collected pursuant to this section shall be paid into the
32 environmental protection fund established pursuant to section ninety-
33 two-s of the state finance law.

34 § 46. Paragraph a of subdivision 1 and subdivision 2 of section
35 71-2503 of the environmental conservation law, as amended by chapter 666
36 of the laws of 1989, are amended to read as follows:

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

52 2. Criminal sanctions. Any person who violates any provision of arti-
53 cle twenty-five shall, in addition, for the first offense, be guilty of
54 a violation punishable by a fine of not less than [~~five~~] seven hundred
55 fifty nor more than [~~five~~] seven thousand five hundred dollars; for a
56 second and each subsequent offense such person shall be guilty of a

1 misdemeanor punishable by a fine of not less than one thousand nor more
2 than [~~ten~~] fifteen thousand dollars or a term of imprisonment of not
3 less than fifteen days nor more than six months or both. In addition to
4 or instead of these punishments, any offender shall be punishable by
5 being ordered by the court to restore the affected tidal wetland or area
6 immediately adjacent thereto to its condition prior to the offense,
7 insofar as that is possible. The court shall specify a reasonable time
8 for the completion of the restoration, which shall be effected under the
9 supervision of the commissioner. Each offense shall be a separate and
10 distinct offense and, in the case of a continuing offense, each day's
11 continuance thereof shall be deemed a separate and distinct offense.

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

15 § 71-2505. Enforcement.

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

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

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

55 b. i. Any person who violates any of the provisions of, or who fails
56 to perform any duty imposed by, title 3 or 7 of article 27 of this chap-

1 ter, or any rule or regulation promulgated pursuant thereto, or any term
2 or condition of any certificate or permit issued pursuant thereto and
3 thereby causes the release of solid waste into the environment, shall be
4 liable for a civil penalty not to exceed [~~eleven thousand two hundred~~
5 ~~fifty~~] sixteen thousand eight hundred seventy-five dollars for each such
6 violation and an additional penalty of not more than [~~eleven thousand~~
7 ~~two hundred fifty~~] sixteen thousand eight hundred seventy-five dollars
8 for each day during which such violation continues, to be assessed by
9 the commissioner after an opportunity to be heard pursuant to the
10 provisions of section 71-1709 of this article, or by the court in any
11 action or proceeding pursuant to section 71-2727 of this title, and, in
12 addition thereto, such person may by similar process be enjoined from
13 continuing such violation and any permit or certificate issued to such
14 person may be revoked or suspended or a pending renewal application
15 denied.

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

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

35 2. Criminal sanctions. a. Any person who, having any of the culpable
36 mental states defined in section 15.05 of the penal law, shall violate
37 any of the provisions of or who fails to perform any duty imposed by
38 title 3 or 7 of article 27 of this chapter, or any rules and regulations
39 promulgated pursuant thereto, or any final determination or order of the
40 commissioner made pursuant to this title shall be guilty of a violation
41 and, upon conviction thereof, shall be punished by a fine of not less
42 than [~~one thousand five hundred~~] two thousand two hundred fifty dollars
43 nor more than [~~fifteen~~] twenty-two thousand five hundred dollars per day
44 of violation or by imprisonment for not more than fifteen days or by
45 both such fine and imprisonment.

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

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

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

10 c. i. Any person who shall violate paragraph a of this subdivision and
11 thereby causes or attempts to cause the release of more than seventy
12 cubic yards of solid waste into the environment shall be guilty of a
13 class A misdemeanor and, upon conviction thereof, shall be punished by a
14 fine of not less than [~~three thousand seven hundred fifty~~] five thousand
15 six hundred twenty-five dollars per day nor more than [~~thirty seven~~
16 ~~thousand five hundred~~] fifty-six thousand two hundred fifty dollars per
17 day of violation, or by imprisonment for a term in accordance with the
18 penal law, or by both such fine and imprisonment.

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

29 3. Additional sanctions. Any person who violates any of the provisions
30 of, or who fails to perform any duty imposed by title 7 of article 27,
31 with regard to the construction and operation of facilities for the
32 disposal of construction and demolition debris or any rule or regulation
33 promulgated pursuant thereto, or any term or condition of any certifi-
34 cate or permit issued pursuant thereto or any final determination or
35 order of the commissioner made pursuant to this title shall be liable
36 for a civil penalty not to exceed [~~fifteen~~] twenty-two thousand five
37 hundred dollars and each day of such deposition shall constitute a sepa-
38 rate violation and said civil penalty is in addition to any other fines
39 or penalties which may be applied pursuant to this title.

40 § 49. Section 71-2705 of the environmental conservation law, as added
41 by chapter 550 of the laws of 1980, subdivision 1 as amended by section
42 30 and subdivision 2 as amended by section 31 of part C of chapter 62 of
43 the laws of 2003, is amended to read as follows:

44 § 71-2705. Violations of titles 9, 11 and 13 of article 27 of this chap-
45 ter.

46 1. Civil and administrative sanctions. Any person who violates any of
47 the provisions of, or who fails to perform any duty imposed by titles 9,
48 11 and 13 of article 27 or any rule or regulation promulgated pursuant
49 thereto, or any term or condition of any certificate or permit issued
50 pursuant thereto, or any final determination or order of the commission-
51 er made pursuant to this title shall be liable in the case of a first
52 violation, for a civil penalty not to exceed [~~thirty seven thousand five~~
53 ~~hundred~~] fifty-six thousand two hundred fifty dollars and an additional
54 penalty of not more than [~~thirty seven thousand five hundred~~] fifty-six
55 thousand two hundred fifty dollars for each day during which such
56 violation continues, to be assessed by the commissioner after an oppor-

1 tunity to be heard pursuant to the provisions of section 71-1709 of this
2 article, or by the court in any action or proceeding pursuant to section
3 71-2727 of this title, and, in addition thereto, such person may by
4 similar process be enjoined from continuing such violation and any
5 permit or certificate issued to such person may be revoked or suspended
6 or a pending renewal application denied. In the case of a second and any
7 further violation, the liability shall be for a civil penalty not to
8 exceed [~~seventy-five~~] one hundred twelve thousand five hundred dollars
9 for each such violation and an additional penalty not to exceed [~~seven-~~
10 ~~ty-five~~] one hundred twelve thousand five hundred dollars for each day
11 during which such violation continues.

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

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

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

33 (a) [~~Three~~] Four hundred fifty thousand dollars for a class C felony;

34 (b) [~~Two hundred twenty-five thousand~~] Three hundred thirty-seven
35 thousand five hundred dollars for a class D felony;

36 (c) [~~One hundred fifty thousand~~] Twenty-two thousand five hundred
37 dollars for a class E felony;

38 (d) [~~Thirty seven thousand five hundred~~] Fifty-six thousand two
39 hundred fifty dollars for a class A misdemeanor;

40 (e) [~~Fifteen~~] Twenty-two thousand five hundred dollars for a class B
41 misdemeanor; or

42 (f) Double the amount of the defendant's gain from the commission of
43 the crime.

44 § 51. Subdivisions 1, 2 and 5 of section 71-2722 of the environmental
45 conservation law, subdivision 1 as amended by section 33 and subdivision
46 2 as amended by section 34 of part C of chapter 62 of the laws of 2003,
47 and subdivision 5 as added by chapter 152 of the laws of 1990, are
48 amended to read as follows:

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

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

5 5. All civil penalties and fines collected for any violation of such
6 title seventeen shall be paid over to the commissioner for deposit in
7 the [~~general-fund~~] conservation fund to the credit of the conservation
8 enforcement account established pursuant to subdivision (k) of section
9 eighty-three of the state finance law; provided however, that all civil
10 penalties collected for any violation of such title seventeen which have
11 been imposed by the environmental control board of the city of New York,
12 or a local adjudicatory body pursuant to subdivision four of this
13 section, shall be paid into an environmental fund of such city or local-
14 ity.

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

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

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

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

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

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

51 § 71-2729. Enforcement of title 26 of article 27 of this chapter.

52 1. a. Any consumer, as defined in title twenty-six of article twenty-
53 seven of this chapter, who violates any provision of, or fails to
54 perform any duty imposed by, section 27-2611 of this chapter, shall be
55 liable for a civil penalty not to exceed one hundred fifty dollars for
56 each violation.

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

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

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

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

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

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

40 2. All penalties collected pursuant to this section shall be paid over
41 to the commissioner for deposit to the environmental protection fund
42 established pursuant to section ninety-two-s of the state finance law.

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

46 1. Administrative sanctions. Except as otherwise provided in this
47 subdivision, any person who violates any provision of article 33 of this
48 chapter or any rule, regulation or order issued thereunder or commits
49 any offense described in section 33-1301 of this chapter shall be liable
50 to the people of the state for a civil penalty not to exceed ~~five~~
51 seven thousand five hundred dollars for a first violation, and not to
52 exceed ~~ten~~ fifteen thousand dollars for a subsequent offense, to be
53 assessed by the commissioner after a hearing or opportunity to be heard.
54 Notwithstanding any provision of law to the contrary, an owner or
55 owner's agent of a multiple dwelling or owner, owner's agent or a person
56 in a position of authority for all other types of premises, as such

1 terms are defined in paragraph d of subdivision five of section 33-0905
2 of this chapter, who violates any provision of a local law adopted
3 pursuant to subdivision one of section 33-1004 of this chapter relating
4 to paragraph b of such subdivision, and a person, who violates any
5 provision of a local law adopted pursuant to subdivision one of section
6 33-1004 of this chapter relating to paragraph c of such subdivision, and
7 a person who violates the provisions of subdivision three of section
8 three hundred ninety-c of the social services law shall, for a first
9 such violation, in lieu of a penalty, be issued a written warning and
10 shall also be issued educational materials pursuant to subdivision two
11 of section 33-1005 of this chapter. Such person shall, however, for a
12 second violation, be liable to the people of the state for a civil
13 penalty not to exceed one hundred ~~fifty~~ dollars, and not to exceed [~~two~~
14 ~~hundred fifty~~] three hundred seventy-five dollars for any subsequent
15 violation, such penalties to be assessed by the commissioner after a
16 hearing or opportunity to be heard.

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

36 3. Criminal sanctions. Any person who, having the culpable mental
37 states defined in subdivision one or two of section 15.05 or in section
38 20.20 of the penal law, violates any provision of article 33 of this
39 chapter or any rule, regulation thereunder or commits any offense
40 described in section 33-1301 of this chapter, except an offense relating
41 to the application of a general use pesticide shall be guilty of a
42 misdemeanor and, upon conviction thereof, shall be punished by a fine
43 not to exceed [~~five~~ seven thousand five hundred dollars for each day
44 during which such violation continues or by imprisonment for a term of
45 not more than one year, or by both such fine and imprisonment. If the
46 conviction is for a subsequent offense committed after a first
47 conviction of such person under this subdivision, punishment shall be by
48 a fine not to exceed [~~ten~~ fifteen thousand dollars for each day during
49 which such violation continues or by imprisonment for a term of not more
50 than one year, or by both such fine and imprisonment. When a violation
51 consists of the manufacture or production of any prohibited article,
52 each day during which or any part of which such manufacture or
53 production is carried on or continued, shall be deemed a separate
54 violation. Any person who violates any provision of article 33 of this
55 chapter or any rule or regulation thereunder or commits any offense
56 described in section 33-1301 of this chapter relating to the use of a

1 general use pesticide shall be guilty of a violation and, upon
2 conviction thereof, shall be punished by a fine not to exceed [~~twenty-~~
3 ~~five hundred~~] three thousand seven hundred fifty dollars. If the
4 conviction is for a subsequent offense committed after the first such
5 conviction of such person under this subdivision, punishment shall be by
6 a fine not to exceed [~~five~~] seven thousand five hundred dollars. Prose-
7 cution hereunder may be conducted by either the attorney general or the
8 district attorney consistent with section 71-0403 of this article. With
9 respect to violations of section 33-1004 of this chapter, penalties
10 imposed pursuant to this subdivision may be assessed only against a
11 person providing a commercial lawn application.

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

14 § 71-3103. Enforcement of article 35.

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

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

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

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

46 § 71-3307. Criminal sanctions.

47 Any person who, having any of the culpable mental states defined in
48 section 15.05 of the penal law, shall violate any of the provisions of
49 or who fails to perform any duty imposed by article forty-three of this
50 chapter or any rules or regulations promulgated thereto, or any final
51 determination or order of the Lake George park commission shall be guilt-
52 y of a violation, and, upon conviction thereof, shall be punished by a
53 fine not to exceed [~~five~~] seven hundred fifty dollars for each violation
54 and [~~five~~] seven hundred fifty dollars for each day such violation shall
55 continue.

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

3 § 71-3501. Putting noisome or unwholesome substances or maintaining
4 noisome business on or near highway.

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

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

18 § 71-3703. Enforcement of article 37.

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

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

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

45 4. Any person who violates any of the provisions of, or who fails to
46 perform any duty imposed by section 37-0117 or any rule or regulation
47 promulgated pursuant hereto, shall be liable for a civil penalty not to
48 exceed one thousand five hundred dollars for each day during which such
49 violation continues, and in addition thereto, such person may be
50 enjoined from continuing such violation. Such person shall for a second
51 violation be liable to the people of the state for a civil penalty not
52 to exceed [~~two thousand five hundred~~] three thousand seven hundred fifty
53 dollars for each day during which such violation continues.

54 5. Any person who violates any of the provisions of or who fails to
55 perform any duty imposed by sections 37-1003 and 37-1007 of this chapter
56 or any rule or regulation promulgated pursuant hereto, shall be liable

1 for a civil penalty not to exceed one thousand five hundred dollars for
2 each day during which such violation continues, and in addition thereto,
3 such person may be enjoined from continuing such violation. Such person
4 shall for a second violation be liable to the people of the state for a
5 civil penalty not to exceed [~~two thousand five hundred~~] three thousand
6 seven hundred fifty dollars for each day during which such violation
7 continues.

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

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

20 § 71-3803. Enforcement of article thirty-eight.

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

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

33 § 71-3903. Violations; penalties.

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

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

17 § 63. Section 71-3905 of the environmental conservation law, as added
18 by chapter 732 of the laws of 1980, is amended to read as follows:
19 § 71-3905. Enforcement.

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

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

33 § 71-4001. General criminal penalty.

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

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

46 § 71-4003. General civil penalty.

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

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

4 § 71-4103. Enforcement of article seventy-two.

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

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

15 § 71-4303. Violations of article forty of this chapter.

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

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

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

55 § 71-4402. Violations of title 15 of article 27 of this chapter.

56 1. Civil and administrative sanctions.

1 Any person who violates any of the provisions of, or who fails to
2 perform any duty imposed by title 15 of article 27 of this chapter, or
3 any rule or regulation promulgated pursuant thereto, or any term or
4 condition of any certificate or permit issued pursuant thereto, or any
5 final determination or order of the commissioner made pursuant to this
6 title shall be liable in the case of a first violation, for a civil
7 penalty not to exceed [~~twenty-five~~] thirty-seven thousand five hundred
8 dollars and an additional penalty of not more than [~~twenty-five~~] thir-
9 ty-seven thousand five hundred dollars for each day during which such
10 violation continues, to be assessed by the commissioner after an oppor-
11 tunity to be heard pursuant to the provisions of section 71-1709 of this
12 chapter, or by the court in any action or proceeding pursuant to section
13 71-2727 of this chapter, and, in addition thereto, such persons may by
14 similar process be enjoined from continuing such violation and any
15 permit or certificate issued to such person may be revoked or suspended
16 or a pending renewal application denied. In the case of a second and any
17 further violation, the liability shall be for a civil penalty not to
18 exceed [~~fifty~~] seventy-five thousand dollars for each such violation and
19 an additional penalty not to exceed [~~fifty~~] seventy-five thousand
20 dollars for each day during which such violation continues.

21 2. Criminal sanctions.

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

31 b. Any person who, intentionally, knowingly, or recklessly shall
32 violate any of the provisions of or who fails to perform any duty
33 imposed by title 15 of article 27 of this chapter or any rules and regu-
34 lations promulgated pursuant thereto, or any term or condition of any
35 certificate or permit issued pursuant thereto, or any final determi-
36 nation or order of the commissioner made pursuant to this title shall be
37 guilty of a class B misdemeanor and, upon conviction thereof, shall for
38 a first conviction be punished by a fine not to exceed [~~fifteen~~] twen-
39 ty-two thousand five hundred dollars per day of violation or by impri-
40 sonment for a term of not more than ninety days, or both such fine and
41 imprisonment. If the conviction is for an offense committed after a
42 first conviction of such person under this paragraph, within the preced-
43 ing five years, such person shall be guilty of a class A misdemeanor and
44 upon conviction, punishment shall be by a fine not to exceed [~~fifty~~]
45 seventy-five thousand five hundred dollars per day of violation, or by
46 imprisonment for not more than one year or by both such fine and impri-
47 sonment.

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

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

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

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

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

1 (d) [~~fifteen~~ twenty-two thousand five hundred dollars for a class B
2 misdemeanor; or
3 (e) double the amount of the defendant's gain from the commission of
4 the crime.
5 § 70. This act shall take effect immediately.