§ 71-3903. Violations; penalties.

1. Administrative sanctions. Any person who violates, disobeys or disregards any provision of article thirty-nine shall be liable to the people of the state for a civil penalty of not to exceed three thousand dollars for every such violation, to be assessed by the commissioner after a hearing or opportunity to be heard. The penalty may be recovered in an action brought by the commissioner in any court of competent jurisdiction. Such civil penalty may be released or comprised by the commissioner before the matter has been referred to the attorney general; and where such matter has been referred to the attorney general, any such penalty may be released or comprised and any action commenced to recover the same may be settled and discontinued by the attorney general with the consent of the commissioner. In addition, the commissioner shall have power, following a hearing, to direct the violator to cease his violation of article thirty-nine and, where appropriate, to recall any sewage system cleaners or additives sold or distributed in violation of said article. Any such order of the commissioner shall be enforceable in an action brought by the commissioner in any court of competent jurisdiction. Any civil penalty or order issued by the commissioner under this subdivision shall be reviewable in a proceeding under article seventy-eight of the civil practice law and rules commenced within thirty days of such penalty or order.

2. Criminal sanctions. Any person who knowingly violates any provision of section 39-0105 of this chapter shall, in addition to the sanctions provided in subdivision one of this section, for the first offense, be guilty of a violation punishable by a fine of not less than five hundred nor more than one thousand dollars; for a second and each subsequent offense he shall be guilty of a misdemeanor punishable by a fine of not less than one thousand nor more than three thousand dollars or a term of imprisonment of not more than six months or both. In addition to or instead of these sanctions, any offender shall be punishable by being ordered by the court to recall any sewage system cleaners or additives sold or distributed in violation of article thirty-nine. The court shall specify a reasonable time for the completion of the recall. Each offense

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