§ 160-hhh. Violations; penalties; appeals. 1. Any person that knowingly submits a materially false statement on the affirmation provided for in section eighteen-c of the workers' compensation law shall be guilty of a class A misdemeanor. Any person that commits a second or subsequent offense under this subdivision shall be guilty of a class E felony.

2. The workers' compensation board or local taxi and limousine commission may, upon its own motion or the application of a local taxi and limousine commission or the independent livery fund, and upon notice to the independent livery base, conduct a hearing as to the validity of any affirmation filed under section eighteen-c of the workers' compensation law, or to determine whether there has been any other violation of this article. Should the workers' compensation board or local taxi and limousine commission determine that the certification contains any materially false statements, the workers' compensation board may:

(a) revoke the livery base's authorization as an independent livery base for a period of up to five years;

(b) impose a civil penalty of up to ten thousand dollars; and/or

(c) refer the independent livery base to the local taxi and limousine commission for such additional sanction as it may impose under its rules and regulations.

3. Any independent livery base which has been found on two separate occasions, under subdivision two of this section, to have made a materially false statement in its certification shall be permanently barred from acting as an independent livery base.

4. If an independent livery base fails to submit to the independent livery driver benefit fund any required charge, the workers' compensation board or local taxi and limousine commission may order that it pay into the fund, upon application of the fund and following notice to the independent livery base (a) the amount overdue plus interest on such amount, and/or (b) a penalty of up to five hundred dollars for each thirty days after notice is given that the payment is overdue. The workers' compensation board or local taxi and limousine commission may

suspend or revoke such livery base's authorization to act as an independent livery base for failure to make such payment. The rate of interest applicable to this subdivision shall be twelve percent per annum. Any monetary penalty imposed pursuant to this subdivision shall be retained by the workers' compensation board and be used to defray the costs of administering this article.

5. If the workers' compensation board or local taxi and limousine commission determines that any independent livery base has made any material misrepresentations, or temporarily altered the affiliation of any livery, livery driver or livery registrant, for the purpose of reducing its payments into the fund, the workers' compensation board or local taxi and limousine commission may suspend the livery base's membership in the fund for a period of up to two years, and may impose a penalty of up to five thousand dollars.

6. If the workers' compensation board or local taxi and limousine commission determines that any independent livery base has coerced any livery driver into making false statements or refraining from reporting any violations of this article, the workers' compensation board or local taxi and limousine commission may suspend the livery base's membership in the fund for a period of up to two years, and may impose a penalty of up to five thousand dollars.

7. Except as otherwise provided in this section, a livery base that is found to have violated a provision of this article or a rule promulgated by the workers' compensation board or local taxi and limousine commission pursuant to this article shall be liable for a fine in an amount not to exceed five thousand dollars per violation.

8. If the fund has reason to believe a violation of this article by a fund member may have occurred, the fund shall notify the workers' compensation board. Upon receipt of such a referral, the workers' compensation board shall hold a hearing to determine the validity of the charge, or refer the matter to the local taxi and limousine commission for such determination.

9. The responsible persons of an independent livery base shall be personally liable for the amount of any monetary penalties awarded pursuant to this subdivision. "Responsible persons," for purposes of this subdivision, shall be: (a) the directors of a livery base that is a corporation; (b) the managers of a livery base that is a limited liability company or its members if management of a livery base is vested in its members; (c) the general partner or partners of a livery base that is a partnership; (d) all individuals who directly or indirectly own, control or hold the power to vote ten percent or more of the voting interests of any corporation, joint stock company, partnership, association, trust, limited liability company or similar entity that manages a livery base; and (e) the president, secretary and treasurer of a livery base, regardless of its form of organization.

10. Failure of the independent livery base, or of its responsible persons, to pay any charges or penalties awarded pursuant to this section within twenty days of issuance of a valid order so to do, or in the event an appeal has been taken from the determination of the workers' compensation board, to deposit with the workers' compensation board within twenty days of the issuance of the determination from which the appeal is taken the total amount of the award as security for its payment, shall entitle the workers' compensation board or local taxi and limousine commission to file with the clerk of Albany county or the county where the local taxi and limousine commission is located a certified copy of the determination of the workers' compensation board or the local taxi and limousine commission, and thereupon judgment shall be entered in the supreme court by the clerk of the county where the determination is filed immediately upon such filing. Such judgment shall be entered in the same manner, have the same effect and be subject to the same proceedings as though rendered in a suit duly heard and determined by the supreme court, except that no appeal may be taken therefrom.

11. Within twenty days after issuance by the workers' compensation board of a determination adverse to a livery base pursuant to this section, an appeal may be taken therefrom to the appellate division of the supreme court, third department, by the aggrieved party.

12. If the membership of an independent livery base in the independent livery fund is suspended for failure to pay assessments under this article, the livery base may make application for reinstatement only upon payment of such assessments and such penalties and interest as the local taxi and limousine commission or workers' compensation board has imposed, or upon the agreement by the base and fund to a schedule for such payment.

13. Any sanction imposed under this section shall be after notice to the independent livery base and an opportunity for a hearing.