§ 860-h. Civil penalty. 1. An employer who fails to give notice as required by paragraph (b) of subdivision one of section eight hundred sixty-b of this article is subject to a civil penalty of not more than five hundred dollars for each day of the employer's violation. The employer is not subject to a civil penalty under this section if the employer pays to all applicable employees the amounts for which the employer is liable under section eight hundred sixty-g within three weeks from the date the employer orders the mass layoff, relocation, or employment loss.

2. The total amount of penalties for which an employer may be liable under this section shall not exceed the maximum amount of penalties for which the employer may be liable under federal law for the same violation.

3. Any penalty amount paid by the employer under federal law shall be considered a payment made under this article.

4. If an employer proves to the satisfaction of the commissioner that the act or omission that violated this article was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this article, the commissioner may in his or her discretion reduce the amount of the penalty provided for in this section. In determining the amount of such reduction, the commissioner shall consider (a) of the size of the employer; (b) the hardships imposed on employees by the violations; (c) any efforts by the employer to mitigate the violation; and (d) the grounds for the employer's belief.