§ 870-j. Civil penalties. 1. Any person who knowingly and willfully operates an amusement device, viewing stand or tent without any of the following:

(a) the permit required by section eight hundred seventy-d of this article; or

(b) the inspections required by section eight hundred seventy-e of this article; or

(c) the insurance or other security required by section eight hundred seventy-f of this article shall be subject to a civil penalty of not less than two thousand dollars, nor more than four thousand dollars, for each day the violation continues.

2. Any person who operates an amusement device, viewing stand or tent without any of the following:

(a) the permit required by section eight hundred seventy-d of this article; or

(b) the inspections required by section eight hundred seventy-e of this article; or

(c) the insurance or other security required by section eight hundred seventy-f of this article shall be subject to a civil penalty of not less than two thousand dollars, nor more than four thousand dollars.

3. The commissioner, in assessing penalties under subdivision one of this section, shall give due consideration to the appropriateness of the penalty with respect to the size of the owner's or lessee's business, the good faith of the owner or lessee and his history of previous violation.

4. Any operator of an amusement device who has been subject to a civil penalty imposed pursuant to this section relating to the operation of such amusement device on two or more occasions within any five year period of time shall not operate the amusement device in this state, and such device shall be taken out of service as soon as practicable. When an amusement device is taken out of service pursuant to this subdivision, the operator of such device shall sign an affidavit, in a form approved by the commissioner, that the amusement device was taken out of service and will remain out of service until such time as the

commissioner determines that the amusement device meets all safety requirements established pursuant to this article. Any operator of an amusement device, which is sworn to have been taken out of service, who operates or allows to be operated such device, in violation of the operator's affidavit, shall be subject to a fine of ten thousand dollars.