

§ 5714. Penalties.

(a) Retail food facilities under jurisdiction of department.--

For retail food facilities under the jurisdiction of the department, penalties are as follows:

(1) A person who violates any provision of this subchapter or any rule, regulation, standard or order made under this subchapter commits a summary offense for the first or second offense and shall be subject to a fine not less than \$100 but not more than \$300. A person who violates any provision of this subchapter or any rule, regulation, standard or order made under this subchapter commits a misdemeanor of the third degree if the violation is a third or subsequent offense and if the violation occurs within two years of the date of the last previous offense.

(2) In addition to proceeding under any other remedy available at law or in equity for a violation of this subchapter or a rule or regulation adopted or any order issued under this subchapter, the secretary may assess a civil penalty not to exceed \$10,000 upon an individual or business for each offense. No civil penalty shall be assessed unless the person charged has been given notice and opportunity for a hearing in accordance with law. In determining the amount of the penalty, the secretary shall consider the gravity of the violation. Whenever the secretary finds a violation which did not cause harm to human health, the secretary may issue a warning in lieu of assessing a penalty. In case of inability to collect the civil penalty or failure of any person to pay all or any portion of the penalty as the secretary may determine, the secretary may refer the matter to the Attorney General, who shall recover the amount by action in the appropriate court.

(b) Retail food facilities under other jurisdiction.--

Penalties shall be established by the licenser for retail food facilities under the jurisdiction of a licenser that is not the department.