

§ 113-191. Unlawful sale or purchase of fish; criminal and civil penalties.

(a) Any person who sells fish in violation of G.S. 113-168.4 or a rule of the Marine Fisheries Commission to implement that section is guilty of a Class A1 misdemeanor.

(b) Any person who purchases fish in violation of G.S. 113-169.3 or a rule of the Marine Fisheries Commission to implement that section is guilty of a Class A1 misdemeanor.

(c) A civil penalty of not more than ten thousand dollars (\$10,000) may be assessed by the Secretary against any person who sells fish in violation of G.S. 113-168.4 or purchases fish in violation of G.S. 113-169.3.

(d) In determining the amount of the penalty, the Secretary shall consider the factors set out in G.S. 143B-289.53(b). The procedures set out in G.S. 143B-289.53 shall apply to civil penalty assessments that are presented to the Commission for final agency decision.

(e) The Secretary shall notify any person assessed a civil penalty of the assessment and the specific reasons therefor by registered or certified mail or by any means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed pursuant to G.S. 150B-23 within 30 days of receipt of the notice of assessment.

(f) Requests for remission of civil penalties shall be filed with the Secretary. Remission requests shall not be considered unless filed within 30 days of receipt of the notice of assessment. Remission requests must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on which the assessment was based. Consistent with the limitations in G.S. 143B-289.53(c), remission requests may be resolved by the Secretary and the violator. If the Secretary and the violator are unable to resolve the request, the Secretary shall deliver remission requests and his recommended action to the Committee on Civil Penalty Remissions of the Marine Fisheries Commission appointed pursuant to G.S. 143B-289.53(c).

(g) If any civil penalty has not been paid within 30 days after notice of assessment has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment, unless the violator contests the assessment as provided in subsection (e) of this section, or requests remission of the assessment in whole or in part as provided in subsection (f) of this section. If any civil penalty has not been paid within 30 days after the final agency decision or court order has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or has his or its principal place of business to recover the amount of the assessment. Civil actions must be filed within three years of the date the final agency decision or court order was served on the violator. (1997-400, ss. 4.2, 4.5; 1998-225, ss. 3.5, 3.6.)