

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 39

Short Title: Labor/Up Amusement Device Penalties. (Public)

Sponsors: Representatives Davis and Howard (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Health, if favorable, Judiciary III, if favorable, Finance.

February 4, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE PENALTIES FOR THE ILLEGAL OPERATION OF
3 AMUSEMENT DEVICES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 95-111.13 reads as rewritten:

6 "**§ 95-111.13. Violations; civil penalties; appeal; criminal penalties.**

7 (a) Any person who violates G.S. 95-111.7(a) or (b) (Operation without certificate;
8 operation not in accordance with Article or rules and regulations) ~~shall be or G.S. 95-111.8~~
9 ~~(Location notice) is~~ subject to a civil penalty not to exceed ~~two hundred fifty dollars (\$250.00)~~
10 two thousand five hundred dollars (\$2,500) for each rule, regulation, or section of this Article
11 violated and for each day each device is so operated or used.

12 (b) Any person who violates G.S. 95-111.7(c) (Operation after refusal to issue or after
13 revocation of certificate) or G.S. 95-111.10(c) (Reports required) or G.S. 95-111.12 (Liability
14 insurance) ~~shall be is~~ subject to a civil penalty not to exceed ~~five hundred dollars (\$500.00)~~ five
15 thousand dollars (\$5,000) for each day each device is so operated or used.

16 (c) ~~Any person who violates G.S. 95-111.8 (Location notice) shall be subject to a civil~~
17 ~~penalty not to exceed five hundred dollars (\$500.00) for each day any device is operated or~~
18 ~~used without the location notice having been provided.~~

19 (d) Any person who violates the provisions of G.S. 95-111.10(d) (Reports required) or
20 knowingly permits the operation of an amusement device in violation of G.S. 95-111.11(a)
21 (Operator requirements) ~~shall be is~~ subject to a civil penalty not to exceed ~~five hundred dollars~~
22 ~~(\$500.00)~~ five thousand dollars (\$5,000) for each day each device is so operated or used.

23 (e) Any person who violates G.S. 95-111.9 (Operation of unsafe device) or
24 G.S. 95-111.11(b) (Operation of an amusement device while impaired) ~~shall be is~~ subject to a
25 civil penalty not to exceed ~~one thousand dollars (\$1,000)~~ ten thousand dollars (\$10,000) for
26 each day each device is so operated or used.

27 (f) In determining the amount of any penalty ordered under authority of this section, the
28 Commissioner shall give due consideration to the appropriateness of the penalty with respect to
29 the ~~size annual gross volume~~ of the business ~~of the person~~ being charged, the gravity of the
30 violation, the good faith of the ~~person~~ person, and the record of previous violations.

31 (g) The determination of the amount of the penalty by the Commissioner ~~shall be is~~
32 final, unless within 15 days after receipt of notice thereof by certified mail with return receipt,
33 by signature confirmation as provided by the U.S. Postal Service, by a designated delivery
34 service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand
35 delivery, the person charged with the violation takes exception to the determination, in which



1 event final determination of the penalty shall be made in an administrative proceeding and in a
2 judicial proceeding pursuant to Chapter 150B of the General Statutes, the Administrative
3 Procedure Act.

4 (h) The Commissioner may file in the office of the clerk of the superior court of the
5 county wherein the person, against whom a civil penalty has been ordered, resides, or if a
6 corporation is involved, in the county wherein the corporation maintains its principal place of
7 business, or in the county wherein the violation occurred, a certified copy of a final order of the
8 Commissioner unappealed from, or of a final order of the Commissioner affirmed upon appeal.
9 Whereupon, the clerk of said court shall enter judgment in accordance therewith and notify the
10 parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall
11 thereafter be the same, as though said judgment had been rendered in a suit duly heard and
12 determined by the superior court of the General Court of Justice.

13 (i) Any person who willfully violates any provision of this ~~Article, and the violation~~
14 ~~causes the death of any person, shall be~~ Article is guilty of a Class 2 misdemeanor, which may
15 include a fine of not more than ten thousand dollars (\$10,000); except that if the conviction is
16 for a violation committed after a first conviction of such the person, the person shall be guilty
17 of a Class 1 misdemeanor, which may include a fine of not more than twenty thousand dollars
18 (\$20,000). This subsection shall not prevent any prosecuting officer of the State of North
19 Carolina from proceeding against such person on a prosecution charging any degree of willful
20 or culpable homicide.

21 (j) If a person willfully violates any provision of this Article, and that violation causes
22 the serious injury or death of any person, then the person is guilty of a Class E felony
23 punishable by a fine of not more than fifty thousand dollars (\$50,000).

24 (k) Nothing in this section prevents any prosecuting officer of the State of North
25 Carolina from proceeding against a person who violates this Article on a prosecution charging
26 any degree of willful or culpable homicide."

27 **SECTION 2.** This act becomes effective December 1, 2015, and applies to
28 violations occurring on or after that date.