



CHAPTER 95
ARTICLE 16 - OCCUPATIONAL SAFETY AND HEALTH ACT OF NORTH CAROLINA

N.C.G.S. § 95-138.

Civil penalties.

SOURCE General Statutes of North Carolina, as published by the General Assembly	LAST AMENDMENT IN THIS TEXT S.L. 2022-74, s. 13.2(a) — twelfth act in the lineage	RETRIEVED 21 September 2026, 05:34 UTC	SOURCE FINGERPRINT 82383a5479b99a8e7223cd05 - 7691194bb7686de5ef5195ad - 1d03edd18d800aed
--	--	---	--

- § 95-138(a)** The Commissioner, upon recommendation of the Director, or the North Carolina Occupational Safety and Health Review Commission in the case of an appeal, shall have the authority to assess penalties against any employer who violates the requirements of this Article, or any standard, rule, or order adopted under this Article, for amounts set in accordance with subsection (a1) of this section, except as otherwise provided, as follows:
- (1) A penalty shall be assessed for each willful or repeat violation.
 - (2) A penalty shall be assessed for each serious violation.
 - (2a) A penalty of up to twenty-nine thousand dollars (\$29,000) shall be assessed for each serious violation that involves injury to an employee under 18 years of age.
 - (2b) A penalty may be assessed for each violation that is adjudged not to be of a serious nature.
 - (3) A penalty shall be assessed against an employer who fails to correct and abate a violation, within the period allowed for its correction and abatement, which period shall not begin to run until the date of the final Order of the Commission in the case of any appeal proceedings in this Article initiated by the employer in good faith and not solely for the delay of avoidance of penalties. The assessment shall be made to apply to each day during which the failure or violation continues.
 - (4) A penalty shall be assessed for violating the posting requirements, as required under the provisions of this Article.

- § 95-138(a1)** The Commissioner shall adjust minimum and maximum civil penalties in this section in accordance with the requirements set forth in the United States Consumer Price Index for All Urban Consumers published by the United States Department of Labor as necessary to comply with federal law. The Commissioner shall have a period of 60 calendar days from the date a final rule is published in the Federal Register to publish the civil penalties in the North Carolina Register under 13 NCAC 07A .0301 or any related or subsequent regulations setting penalty standards in compliance with Part 1903 of Title 29 of the Code of Federal Regulations, and on its website.
- § 95-138(b)** The Commissioner shall adopt uniform standards that the Commissioner, the Commission, and the hearing examiner shall apply when determining appropriateness of the penalty. The following factors shall be used in determining whether a penalty is appropriate:
- (1) Size of the business of the employer being charged.
 - (2) The gravity of the violation.
 - (3) The good faith of the employer.
 - (4) The record of previous violations; provided that for purposes of determining repeat violations, only the record within the previous three years is applicable.
 - (5) Whether the violation involves injury to an employee under 18 years of age.
- § 95-138(b1)** The report of the hearing examiner and the report, decision, or determination of the Commission on appeal shall specify the standards applied in determining the reduction or affirmation of the penalty assessed by the Commissioner.
- § 95-138(c)** The clear proceeds of all civil penalties and interest recovered by the Commissioner, together with the costs thereof, shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
12 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.



TICK HEIGHT = ACTS IN THAT YEAR DASHED = RECODIFICATION, NOT AMENDMENT

Nº	YEAR	ACT	CHARACTER
01	1973	c. 295, s. 13	ENACTED
02	1973	1987 (Reg. Sess., 1988), c. 1111, s. 12	AMENDED
03	1973	1989 (Reg. Sess., 1990), c. 844	AMENDED
04	1991	c. 329, s. 1	AMENDED
05	1991	c. 761, s. 17	AMENDED
06	1993	c. 474, s. 2	AMENDED
07	1998	S.L. 1998-215, s. 111	AMENDED
08	2004	S.L. 2004-203, s. 39(a)	AMENDED
09	2005	S.L. 2005-133, s. 8	AMENDED
10	2006	S.L. 2006-39, s. 3	AMENDED
11	2009	S.L. 2009-351, s. 4	AMENDED
12	2022	S.L. 2022-74, s. 13.2(a)	AMENDED

APPARATUS II
1 AUTHORITY

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 115C-457.2	(c)	<i>"and Forfeiture Fund in accordance with"</i>

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 95-138 (2022).

PINPOINT

N.C. Gen. Stat. § 95-138(a) (2022).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

This document reproduces the text of one section of the General Statutes of North Carolina from a source file whose SHA-256 digest is printed on every page. The digest fixes the bytes this export was made from; if the State's file changes, the digest will not match.

The text of the section is unaltered. Subsection designators have been moved from the run of text into the margin. The amendment history and the table of authorities are derived from the section by mechanical extraction — they add no characterization of the law.

This is not the official text. The official text is published by the General Assembly of North Carolina.

HISTORY PARENTHETICAL, AS PRINTED BY THE STATE

(1973, c. 295, s. 13; 1987 (Reg. Sess., 1988), c. 1111, s. 12; 1989 (Reg. Sess., 1990), c. 844; 1991, c. 329, s. 1; c. 761, s. 17; 1993, c. 474, s. 2; 1998-215, s. 111; 2004-203, s. 39(a); 2005-133, s. 8; 2006-39, s. 3; 2009-351, s. 4; 2022-74, s. 13.2(a).)

SET IN SPECTRAL AND ARCHIVO
NORTH CAROLINA LAW — STATUTE EXPORT, FORMAT V1

