

## **CHAPTER 49-07 PENAL PROVISIONS**

### **49-07-01. Violation of commission order or rule - Penalty.**

Any person who violates or fails to comply with any provision of this title, or who fails, omits, or neglects to obey, observe, or comply with any order, decision, decree, rule, direction, demand, or requirement of the commission, or any part or provision thereof, in a case in which no other penalty has been provided, shall be guilty of a class A misdemeanor.

### **49-07-01.1. Violation of statute, commission order, or commission rule - Assessment of civil penalty.**

Any person who violates any statute, commission order, or commission rule which applies to matters within the authority of the commission under chapters 8-08, 8-09, 8-10, and 24-09, titles 60 and 64, and title 49 except for chapters 49-22, 49-22.1, and 49-23, in addition to any other penalty provided, is subject to a civil penalty of not to exceed five thousand dollars. A violation occurring under chapter 49-23, in addition to any other penalty, is subject to a civil penalty not to exceed twenty-five thousand dollars. The commission shall develop policies for the assessment of penalties under chapter 49-23 which will take into consideration the severity of damages and the conduct of the offender. The civil penalty may be compromised by the commission. The amount of the penalty when finally determined or agreed upon in compromise, if not paid, may be recovered in a civil action in the courts of this state.

### **49-07-02. Each violation a separate offense.**

Repealed by S.L. 1975, ch. 106, § 673.

### **49-07-03. Act of officer or agent that of principal.**

In construing and enforcing the provisions of this title relating to penalties, the act, omission, or failure of any officer, agent, or employee of any public utility, acting within the scope of that person's official duties or employment, in every case shall be deemed to be the act, omission, or failure of such public utility.

### **49-07-04. Personal liability of officer, agent, or employee - Penalty.**

Repealed by S.L. 1975, ch. 106, § 673.

### **49-07-05. Liability of persons other than public utility - Penalty.**

Repealed by S.L. 1975, ch. 106, § 673.

### **49-07-05.1. Violations of pipeline safety standards - Penalties.**

Any person who violates a rule or order of the commission pursuant to section 49-02-01.2 is subject to a civil penalty to be imposed by the commission of not to exceed two hundred thousand dollars for each violation for each day that the violation continues, except that the maximum penalty may not exceed two million dollars for any related series of violations. A civil penalty may be compromised by the commission. In determining the amount of a civil penalty, or the amount agreed upon in compromise, the commission shall consider the appropriateness of the penalty to the size of the business of the person charged, the nature, circumstances, and gravity of the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, the good faith of the person charged in attempting to achieve compliance, after notification of a violation, and such other matters as justice may require. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the state of North Dakota to the person charged or may be recovered in a civil action in the district court of Burleigh County.

### **49-07-06. Cumulative penalties - Not a bar to contempt.**

All penalties accruing under this title shall be cumulative and a suit for the recovery of one penalty shall not:

1. Bar nor affect the recovery of any other penalty or forfeiture; nor
2. Bar any criminal prosecution against any public utility or any officer, manager, director, governor, agent, or employee thereof, or any other corporation, limited liability company, or person; nor
3. Bar the power to punish for contempt.