

65-3444. Violations of act; penalties. (a) A person who violates any provisions of this act, shall incur, in addition to any other penalty provided by law, a civil penalty in an amount not to exceed \$25,000 for every such violation and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) In assessing the civil penalty under this section, the district court shall consider, when applicable, the following factors:

(1) The extent to which the violation presents a substantial hazard to the health of individuals;

(2) the extent to which the violation has or may have an adverse effect upon the environment to be determined by the court according to the toxicity, degradability and dispersal characteristics of the hazardous waste disposed of or the potential for such damage if no hazardous waste has been disposed, the sensitivity of the receiving environment and the degree to which the disposal degrades existing environmental quality or the potential for such degradation if no disposal has occurred;

(3) the amount of the reasonable costs incurred by the state in detection, investigation and attempted correction of the violation;

(4) the economic savings realized by the person in not complying with the provision for which a violation is charged including, but not limited to, that sum which a person would be required to expend for the planning, acquisition, siting, construction, installation and operation of facilities necessary to comply with the provision violated;

(5) the quantity of the hazardous waste disposed of, if any, in a manner which constitutes a violation; and

(6) the amount which would constitute an actual and substantial economic deterrent to the violation for which it is assessed.

(c) A civil action under this section may be commenced in the name of the state by the secretary or the county or district attorney of the county in which the violation is alleged to have occurred, or at the request of the secretary, by the attorney general.

(d) Any sum assessed under this section shall be deposited as ordered by the district court judge: (1) In the state general fund; (2) in the hazardous waste management fund created by K.S.A. 65-3491 and amendments thereto; or (3) part in the state general fund and the balance in the hazardous waste management fund. Moneys deposited in the hazardous waste management fund under this subsection (d) shall be to reimburse such fund, to the extent practicable as determined by the district court judge, for expenditures from such fund, if any, in the matter which gave rise to the civil action.

History: L. 1981, ch. 251, § 16; L. 1981, ch. 239, § 1; L. 1984, ch. 240, § 12; L. 1999, ch. 44, § 2; July 1.