

## 49 U.S. CODE § 21301 - CHAPTER 201 GENERAL VIOLATIONS

### **(a) Penalty.—**

(1) A person may not fail to comply with section 20160 or with a regulation prescribed or order issued by the Secretary of Transportation under chapter 201 of this title. Subject to section 21304 of this title, a person violating section 20160 of this title or a regulation prescribed or order issued by the Secretary under chapter 201 is liable to the United States Government for a civil penalty. The Secretary shall impose the penalty applicable under paragraph (2) of this subsection. A separate violation occurs for each day the violation continues.

(2) The Secretary shall include in, or make applicable to, each regulation prescribed and order issued under chapter 201 of this title a civil penalty for a violation. The Secretary shall impose a civil penalty for a violation of section 20160 of this title. The amount of the penalty shall be at least \$500 but not more than \$25,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than \$100,000.

(3) The Secretary may compromise the amount of a civil penalty imposed under this subsection to not less than \$500 before referring the matter to the Attorney General for collection. In determining the amount of a compromise, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, and any effect on the ability to continue to do business; and

(C) other matters that justice requires.

(b) **Setoff.**— The Government may deduct the amount of a civil penalty imposed or compromised under this section from amounts it owes the person liable for the penalty.

(c) **Deposit in Treasury.**— A civil penalty collected under this section or section 20113 (b) of this title shall be deposited in the Treasury as miscellaneous receipts.

## TITLE 49 > SUBTITLE V > PART A > CHAPTER 213 > SUBCHAPTER I > § 21302

### **§ 21302. Chapter 201 accident and incident violations and chapter 203–209 violations**

#### **(a) Penalty.—**

(1) Subject to section 21304 of this title, a person violating a regulation prescribed or order issued under chapter 201 of this title related to accident and incident reporting or investigation, or violating chapters 203–209 of this title or a regulation or requirement prescribed or order issued under chapters 203–209, is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation imposes a civil penalty under this subsection. The

amount of the penalty shall be at least \$500 but not more than \$10,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than \$20,000.

**(3)** The Secretary may compromise the amount of the civil penalty under section 3711 of title 31. In determining the amount of a compromise, the Secretary shall consider—

**(A)** the nature, circumstances, extent, and gravity of the violation;

**(B)** with respect to the violator, the degree of culpability, any history of violations, the ability to pay, and any effect on the ability to continue to do business; and

**(C)** other matters that justice requires.

**(4)** If the Secretary does not compromise the amount of the civil penalty, the Secretary shall refer the matter to the Attorney General for collection.

**(b) Civil Actions To Collect.**— The Attorney General shall bring a civil action in a district court of the United States to collect a civil penalty that is referred to the Attorney General for collection under subsection (a) of this section. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

### **§ 21303. Chapter 211 Violations**

**(a) Penalty.**—

**(1)** Subject to section 21304 of this title, a person violating chapter 211 of this title, including section 21103 (as such section was in effect on the day before the date of enactment of the Rail Safety Improvement Act of 2008), or violating any provision of a waiver applicable to that person that has been granted under section 21108 of this title, is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. For a violation of section 21106 of this title, a separate violation occurs for each day a facility is not in compliance.

**(2)** The Secretary of Transportation imposes a civil penalty under this subsection. The amount of the penalty shall be at least \$500 but not more than \$25,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than \$100,000.

**(3)** The Secretary may compromise the amount of the civil penalty under section 3711 of title 31. In determining the amount of a compromise, the Secretary shall consider—

**(A)** the nature, circumstances, extent, and gravity of the violation;

**(B)** with respect to the violator, the degree of culpability, any history of violations, the ability to pay, and any effect on the ability to continue to do business; and

**(C)** other matters that justice requires.

**(4)** If the Secretary does not compromise the amount of the civil penalty, the Secretary shall refer the matter to the Attorney General for collection.

**(b) Civil Actions To Collect.**—

**(1)** The Attorney General shall bring a civil action in a district court of the United

States to collect a civil penalty that is referred to the Attorney General for collection under subsection (a) of this section after satisfactory information is presented to the Attorney General. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

(2) A civil action under this subsection must be brought not later than 2 years after the date of the violation unless administrative notification under section 3711 of title 31 is given within that 2-year period to the person committing the violation. However, even if notification is given, the action must be brought within the period specified in section 2462 of title 28.

(c) **Imputation of Knowledge.**— In any proceeding under this section, a railroad carrier is deemed to know the acts of its officers and agents.

**TITLE 49 > SUBTITLE V > PART A > CHAPTER 213 >  
SUBCHAPTER I > § 21304**

**§ 21304. Willfulness requirement for penalties against individuals**

A civil penalty under this subchapter may be imposed against an individual only for a willful violation. An individual is deemed not to have committed a willful violation if the individual was following the direct order of a railroad carrier official or supervisor under protest communicated to the official or supervisor. The individual is entitled to document the protest.