24-35-506. Limitation on fines.

(1) For a violation of section 24-35-503 (1) or (4), the penalty shall be as follows:

(a) A written warning for a first violation committed within a twenty-four-month period;

(b) A fine of two hundred fifty dollars for a second violation within a twenty-four-month period;

(c) A fine of five hundred dollars for a third violation within a twenty-four-month period;

(d) A fine of one thousand dollars for a fourth violation within a twenty-four-month period; and

(e) A fine of between one thousand dollars and fifteen thousand dollars for a fifth or subsequent violation within a twenty-four-month period.

(2) Notwithstanding the provisions of subsection (1) of this section, no fine for a violation of section 24-35-503 (1) shall be imposed upon a retailer that can establish an affirmative defense to the satisfaction of the division or the hearing officer that, prior to the date of the violation, it:

(a) Had adopted and enforced a written policy against selling cigarettes or tobacco products to persons under the age of eighteen years;

(b) Had informed its employees of the applicable laws regarding the sale of cigarettes and tobacco products to persons under the age of eighteen years;

(c) Required employees to verify the age of cigarette or tobacco product customers by way of photographic identification; and

(d) Had established and imposed disciplinary sanctions for noncompliance.

(3) The affirmative defense established in subsection (2) of this section may be used by a retailer only twice at each location within any twenty-four-month period.

(4) For a violation of section 24-35-503 (2) or (3), the penalty shall be as follows:

(a) (I) For a violation of section 24-35-503 (2), a fine of twenty-five dollars for a first violation committed within a twenty-four-month period;

(II) For a violation of section 24-35-503 (3), a written warning for a first violation committed within a twenty-four-month period;

(b) A fine of fifty dollars for a second violation within a twenty-four-month period;

(c) A fine of one hundred dollars for a third violation within a twenty-four-month period;

(d) A fine of two hundred fifty dollars for a fourth violation within a twenty-four-month period; and

(e) A fine of between two hundred fifty dollars and one thousand dollars for a fifth or subsequent violation within a twenty-four-month period.

Source: L. 98: Entire part added, p. 1183, § 1, effective July 1. **L. 2001:** (1), (3), and (4) amended, p.