

ORC Ann. 1349.192

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§ 1349.192 Civil action by attorney general; penalties; liability for costs of investigation and action.

(A)

(1) The attorney general shall have the exclusive authority to bring a civil action in a court of common pleas for appropriate relief under this section, including a temporary restraining order, preliminary or permanent injunction, and civil penalties, if it appears that a state agency or an agency of a political subdivision has failed or is failing to comply with section 1347.12 of the Revised Code or that a person has failed or is failing to comply with section 1349.19 of the Revised Code. Upon its finding that a state agency or an agency of a political subdivision has failed to comply with section 1347.12 of the Revised Code or that a person has failed to comply with section 1349.19 of the Revised Code, the court shall impose a civil penalty upon the state agency, agency of a political subdivision, or person as follows:

(a) For each day that the state agency, agency of a political subdivision, or person has intentionally or recklessly failed to comply with the applicable section, subject to divisions (A)(1)(b) and (c) of this section, a civil penalty of up to one thousand dollars for each day the agency or person fails to comply with the section;

(b) If the state agency, agency of a political subdivision, or person has intentionally or recklessly failed to comply with the applicable section for more than sixty days, subject to division (A)(1)(c) of this section, a civil penalty in the amount specified in division (A)(1)(a) of this section for each day of the first sixty days that the agency or person fails to comply with the section and, for each day commencing with the sixty-first day that the state agency, agency of a political subdivision, or person has failed to comply with the section, a civil penalty of up to five thousand dollars for each such day the agency or person fails to comply with the section;

(c) If the state agency, agency of a political subdivision, or person has intentionally or recklessly failed to comply with the applicable section for more than ninety days, a civil penalty in the amount specified in division (A)(1)(a) of this section for each day of the first sixty days that the agency or person fails to comply with the section, a civil penalty of up to five thousand dollars for each day commencing with the sixty-first day and continuing through the ninetieth day that the agency or person fails to comply with the section, and, for each day commencing with the ninety-first day that the state agency, agency of a

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political subdivision, or person has failed to comply with the section, a civil penalty of up to ten thousand dollars for each such day the agency or person fails to comply with the section.

- (2) Any civil penalty that is assessed under division (A)(1) of this section shall be deposited into the consumer protection enforcement fund created by section 1345.51 of the Revised Code.
- (3) In determining the appropriate civil penalty to assess under division (A)(1) of this section, the court shall consider all relevant factors, including the following:
- (a) If the defendant in the civil action is a state agency, an agency of a political subdivision, or a person that is a business entity, whether or not the high managerial officer, agent, or employee of the agency or business entity having supervisory responsibility for compliance with section 1347.12 or 1349.19 of the Revised Code, whichever is applicable, acted in bad faith in failing to comply with the section.
 - (b) If the defendant in the civil action is a person other than a business entity, whether or not the person acted in bad faith in failing to comply with section 1349.19 of the Revised Code.
- (B) Any state agency or agency of a political subdivision that is found by the court to have failed to comply with section 1347.12 of the Revised Code or any person that is found by the court to have failed to comply with section 1349.19 of the Revised Code shall be liable to the attorney general for the attorney general's costs in conducting an investigation under section 1349.191 of the Revised Code and bringing an action under this section.
- (C) The rights and remedies that are provided under this section are in addition to any other rights or remedies that are provided by law.

History

151 v H 104, § 1, eff. 2-17-06.

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