

## **227.778 Penalties.**

- (1) A manufacturer, wholesale dealer, or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of KRS 227.772, for the first offense shall be liable for a civil penalty not to exceed ten thousand dollars (\$10,000) per each sale of the cigarettes and, for a subsequent offense, be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) per each sale of the cigarettes, except that in no case shall the penalty against the person or entity exceed one hundred thousand dollars (\$100,000) for each thirty (30) day period.
- (2) A retailer who knowingly sells cigarettes in violation of KRS 227.772 shall:
  - (a) For the first offense be liable for a civil penalty not to exceed five hundred dollars (\$500) and, for a subsequent offense, be liable for a civil penalty not to exceed two thousand dollars (\$2,000) per each sale or offer for sale of cigarettes, if the total number of cigarettes sold or offered for sale in the sale does not exceed one thousand (1,000) cigarettes; or
  - (b) For the first offense be liable for a civil penalty not to exceed one thousand dollars (\$1,000) and, for a subsequent offense, be liable for a civil penalty not to exceed five thousand dollars (\$5,000) per each sale or offer for sale of the cigarettes, if the total number of cigarettes sold or offered for sale in the sale exceeds one thousand (1,000) cigarettes, except that the penalty against any retailer shall not exceed twenty-five thousand dollars (\$25,000) during a thirty (30) day period.
- (3) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to KRS 227.774 shall for the first offense be liable for a civil penalty not to exceed seventy-five thousand dollars (\$75,000) and, for a subsequent offense, be liable for a civil penalty not to exceed two hundred fifty thousand dollars (\$250,000) for each false certification.
- (4) Any other person violating any provision of KRS 227.770 to 227.784 shall be liable for a civil penalty for a first offense not to exceed one thousand dollars (\$1,000) and, for a subsequent offense, be liable for a civil penalty not to exceed five thousand dollars (\$5,000) for each violation.
- (5) Any cigarettes that have been sold or offered for sale that do not comply with the performance standard required by KRS 227.772 shall be subject to forfeiture in accordance with the provisions of KRS 138.165. Before the destruction of any cigarette seized pursuant to KRS 138.165, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarette.
- (6) In addition to any other remedy provided by law, the state fire marshal or Attorney General may file an action in Circuit Court for a violation of KRS 227.770 to 227.784, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation of KRS 227.770 to 227.784, including enforcement costs relating to the specific violation and attorney's fees. Each violation of KRS 227.770 to 227.784 or of administrative regulations promulgated under KRS 227.780 shall constitute a separate civil violation for which the state fire marshal or Attorney General may obtain relief.

**Effective:** April 1, 2008

**History:** Created 2007 Ky. Acts ch. 70, sec. 5, effective April 1, 2008.