

TITLE 4

ABC Board Civil Enforcement Authority

Board Objective: The Board would like to develop a civil fine schedule for enforcement of Title 4 and its implementing regulations against licensees and permittees. They would like that fine schedule enforcement to be independent of an accusation for revocation and suspension. Rather, they would like to attach fines to notices of violations. If a license violates a specific requirement, they can agree to pay the identified fine per the fine schedule or challenge the NOV in front of the Board at its next board meeting. If the Board upholds the NOV and the fine, that would be a final agency decision appealable to Superior Court. That same violation may also support an accusation for suspension or revocation of a license, the appeal of which would proceed through normal OAH proceedings.

Impediments under Current Title 4:

AS 04.06.100 – Board’s Regulatory Authority does not explicit identify this as a permissible subject of regulation, although the board does have broad authority to set terms and conditions for licenses and permits issued. AS 04.06.100(b)(3).

AS 04.11.575 – Board’s authority to impose fines limited to proceedings under AS 04.11.510(c) (actions for suspension and revocation)

(a) Except as provided in (c) of this section, the board may, in addition to any other penalties imposed under this title, impose a civil fine upon a licensee that the board determines, at a proceeding under AS 04.11.510(c), has violated a provision of this title, a regulation adopted under this title, or an ordinance adopted in accordance with AS 04.21.010.

AS 04.16.180(a) – Treats most violations of Title 4 and regulations under it as Class A misdemeanors. Agreeing to a fine for an NOV may expose licensees to criminal prosecution by OSPA or local DA’s. This is not the Board’s desire.

Impediments under CS for SB 9 (JUD):

AS 04.06.100 – same issue with board regulatory authority

AS 04.11.575 – unchanged. Same limitations on civil fines to actions for suspension or revocation

AS 04.16.180(a) – Repealed, but violations of Title 4 and its regulations are treated as criminal violations with statutorily set fines. Agreeing to an NOV may expose licensee to criminal prosecution, although only a violation. Fines appear redundant.