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LEGISLATIVE ACTION

| Senate | . | House |
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Senator Sobel moved the following:

**Senate Amendment (with title amendment)**

Delete lines 2856 - 2983

and insert:

Section 62. Section 429.19, Florida Statutes, is amended to read:

429.19 Violations; imposition of administrative fines; grounds.—

(1) In addition to the requirements of part II of chapter 408, the agency shall impose an administrative fine in the manner provided in chapter 120 for the violation of any provision of this part, part II of chapter 408, and applicable rules by an assisted living facility, for the actions of any



512786

14 person subject to level 2 background screening under s. 408.809,  
15 for the actions of any facility employee, or for an intentional  
16 or negligent act seriously affecting the health, safety, or  
17 welfare of a resident of the facility.

18 (2) Each violation of this part and adopted rules shall be  
19 classified according to the nature of the violation and the  
20 gravity of its probable effect on facility residents. The agency  
21 shall indicate the classification on the written notice of the  
22 violation as follows:

23 (a) Class "I" violations are defined in s. 408.813. The  
24 agency shall impose an administrative fine of \$5,000 for each a  
25 cited class I violation in a facility that is licensed for fewer  
26 than 100 beds at the time of the violation in an amount not less  
27 than \$5,000 and not exceeding \$10,000 for each violation. The  
28 agency shall impose an administrative fine of \$10,000 for each  
29 cited class I violation in a facility that is licensed for 100  
30 or more beds at the time of violation. If the noncompliance  
31 occurs within the prior 12 months, the fine must be levied for  
32 violations that are corrected before an inspection.

33 (b) Class "II" violations are defined in s. 408.813. The  
34 agency shall impose an administrative fine of \$1,000 for each a  
35 cited class II violation in a facility that is licensed for  
36 fewer than 100 beds at the time of the violation in an amount  
37 not less than \$1,000 and not exceeding \$5,000 for each  
38 violation. The agency shall impose an administrative fine of  
39 \$5,000 for each cited class II violation in a facility that is  
40 licensed for 100 or more beds at the time of the violation.

41 (c) Class "III" violations are defined in s. 408.813. The  
42 agency shall impose an administrative fine of \$500 for each a



512786

43 cited class III violation in a facility that is licensed for  
44 fewer than 100 beds at the time of the violation in an amount  
45 not less than \$500 and not exceeding \$1,000 for each violation.  
46 The agency shall impose an administrative fine of \$1,000 for  
47 each cited class III violation in a facility that is licensed  
48 for 100 or more beds at the time of the violation.

49 (d) Class "IV" violations are defined in s. 408.813. The  
50 agency shall impose an administrative fine of \$100 for each  
51 cited class IV violation in a facility that is licensed for  
52 fewer than 100 beds at the time of the violation in an amount  
53 not less than \$100 and not exceeding \$200 for each violation.  
54 The agency shall impose an administrative fine of \$200 for each  
55 cited class IV violation in a facility that is licensed for 100  
56 or more beds at the time of the violation.

57 (e) Regardless of the class of violation cited, instead of  
58 the fine amounts listed in paragraphs (a)-(d), the agency shall  
59 impose an administrative fine of \$500 if a facility is found not  
60 to be in compliance with the background screening requirements  
61 in s. 408.809.

62 ~~(3) For purposes of this section, in determining if a~~  
63 ~~penalty is to be imposed and in fixing the amount of the fine,~~  
64 ~~the agency shall consider the following factors:~~

65 ~~(a) The gravity of the violation, including the probability~~  
66 ~~that death or serious physical or emotional harm to a resident~~  
67 ~~will result or has resulted, the severity of the action or~~  
68 ~~potential harm, and the extent to which the provisions of the~~  
69 ~~applicable laws or rules were violated.~~

70 ~~(b) Actions taken by the owner or administrator to correct~~  
71 ~~violations.~~



512786

72 ~~(c) Any previous violations.~~

73 ~~(d) The financial benefit to the facility of committing or~~  
74 ~~continuing the violation.~~

75 ~~(e) The licensed capacity of the facility.~~

76 (3)~~(4)~~ Each day of continuing violation after the date  
77 established by the agency ~~fixed~~ for correction ~~termination~~ of  
78 the violation, ~~as ordered by the agency,~~ constitutes an  
79 additional, separate, and distinct violation.

80 (4)~~(5)~~ An ~~Any~~ action taken to correct a violation shall be  
81 documented in writing by the owner or administrator of the  
82 facility and verified through followup visits by agency  
83 personnel. The agency may impose a fine and, in the case of an  
84 owner-operated facility, revoke or deny a facility's license  
85 when a facility administrator fraudulently misrepresents action  
86 taken to correct a violation.

87 (5)~~(6)~~ A ~~Any~~ facility whose owner fails to apply for a  
88 change-of-ownership license in accordance with part II of  
89 chapter 408 and operates the facility under the new ownership is  
90 subject to a fine of \$5,000.

91 (6)~~(7)~~ In addition to any administrative fines imposed, the  
92 agency may assess a survey fee, equal to the lesser of one half  
93 of the facility's biennial license and bed fee or \$500, to cover  
94 the cost of conducting initial complaint investigations that  
95 result in the finding of a violation that was the subject of the  
96 complaint or monitoring visits conducted under s. 429.28(3)(c)  
97 to verify the correction of the violations.

98 (7)~~(8)~~ During an inspection, the agency shall make a  
99 reasonable attempt to discuss each violation with the owner or  
100 administrator of the facility, prior to written notification.



512786

101        (8)~~(9)~~ The agency shall develop and disseminate an annual  
102 list of all facilities sanctioned or fined for violations of  
103 state standards, the number and class of violations involved,  
104 the penalties imposed, and the current status of cases. The list  
105 shall be disseminated, at no charge, to the Department of  
106 Elderly Affairs, the Department of Health, the Department of  
107 Children and Family Services, the Agency for Persons with  
108 Disabilities, the area agencies on aging, the Florida Statewide  
109 Advocacy Council, and the state and local ombudsman councils.  
110 The Department of Children and Family Services shall disseminate  
111 the list to service providers under contract to the department  
112 who are responsible for referring persons to a facility for  
113 residency. The agency may charge a fee commensurate with the  
114 cost of printing and postage to other interested parties  
115 requesting a copy of this list. This information may be provided  
116 electronically or through the agency's Internet site.

117  
118 ===== T I T L E   A M E N D M E N T =====

119 And the title is amended as follows:

120        Delete lines 262 - 264

121 and insert:

122        the agency to impose an administrative fine if a  
123        facility is found not to be in compliance with  
124        background screening requirements; deleting