

LA R.S. Title 40
Public Health & Safety
Chapter 1 - Division of Health & Health Officers
State Division of Health -

§4. Sanitary Code

1. A. The state health officer acting through the office of public health of the Department of Health and Hospitals shall prepare, promulgate, and enforce rules and regulations embodied within the state's Sanitary Code covering all matters within his jurisdiction as defined and set forth in R.S. 40:5. The promulgation of this Sanitary Code shall be accomplished in strict accordance with the provisions of the Administrative Procedure Act, and further, in conformity with the following guidelines and directives:

(1)(a) In order to protect the consuming public against food-borne disease, the rules and regulations contained in the Sanitary Code shall be designed so as to provide and require that all food products, including milk and milk products, ice, bottled water, marine and freshwater seafood, animal products, frozen desserts and toppings, and related similar foods, are produced from a safe and sanitary source, and are prepared, processed, packaged, handled, stored, and transported in a sanitary manner which will prevent contamination, spoilage, or adulteration. These food product rules and regulations shall be further designed so as to provide that all facilities, material, and equipment that may come into direct contact with any food or food product must be of nontoxic content to insure a sanitary, wholesome, and nutritious product.

(b)(i) Pending the availability of federal funds to implement this Subparagraph, the inspection of seafood conducted pursuant to the Sanitary Code and pursuant to the Department of Agriculture and Forestry's Seafood Inspection Program shall include a recommendation for testing of the environment, including the water source, to the appropriate agency, only when evidence of contamination, adulteration, or spoilage or of any other condition or substance which is or may be injurious to health of humans or animals is indicated. The department shall adopt rules as part of the Sanitary Code and the Department of Agriculture and Forestry shall adopt rules as part of the Seafood Inspection Program.

(ii) Subject to the appropriation of funds by the legislature, the state health officer in conjunction with the Louisiana Department of Agriculture and Forestry shall institute a public safety marketing campaign to warn the public about the risks of consuming seafood from the People's Republic of China deemed to be safe by the Seafood Inspection Program but which nevertheless contains hazardous substances. The campaign shall include a warning label program as more specifically provided for in R.S. 40:5.5.2. The state health officer shall enter into a memorandum of understanding with the Louisiana Department of Agriculture and Forestry to implement this marketing campaign.

(iii) The Louisiana Retailers Association shall work with the Louisiana Department of Agriculture and Forestry, the Louisiana Crawfish Promotion and Research Board, and other respective agencies to develop a voluntary assessment for the implementation of the public safety marketing campaign.

(c) In order to protect the public health, the state health officer shall promulgate rules and regulations

relative to retail food establishments. Such rules and regulations shall not require a retail food establishment which serves alcoholic beverages and consists of five hundred square feet or less of usable floor area which is accessible to customers to have more than one restroom facility consisting of one water closet and one lavatory. Such limit of the required number of restroom facilities and fixtures shall not apply to retail food establishments which contain wet bars. For the purposes of this Section, "wet bar" shall be defined as a bar within a food service establishment at which patrons may walk up to, order, and receive an alcoholic beverage directly from a bartender.

(2) In order to prevent the occurrence or spread of communicable diseases, the rules and regulations of the Sanitary Code shall provide for an immunization program and provide for and require the reporting, investigation, and application and implementation of appropriate control measures to expressly include isolation and/or quarantine proceedings and measures, for all communicable diseases of public health significance. However, no rule or regulation of the Sanitary Code shall impose or create any general duty to warn third parties upon any healthcare provider who has complied with the applicable reporting requirements for communicable diseases as set forth in the Sanitary Code. These rules and regulations shall also be designed to:

(a) Control rabies in dogs and to prevent rabies from occurring in humans. However, nothing in the immunization programs shall authorize the state health officer or the department to overrule the limitations in either R.S. 40:5.2, or in R.S. 17:170(E).

(b)(i) Regulate the packaging, storage, treatment, and transportation of infectious waste generated by health care providers and noncommercial generators including but not limited to private households. "Infectious waste" means waste which contains pathogens with sufficient virulence and quantity so that exposure to the waste by a susceptible host could result in an infectious disease. In addition, the rules and regulations shall provide for the certification and testing of all equipment used to treat infectious waste to assure safety, effectiveness of the equipment, and compliance with regulatory and statutory health regulations. At a minimum the rules shall provide that the testing shall be conducted annually.

(ii) Regulate the packaging, storage, treatment, disposal, and transportation of home-generated sharps waste. "Home-generated sharps waste" means needles, syringes, and other medical instruments that are capable of puncturing the skin for the delivery of medications derived from a household, including a multifamily residence or household. Rules and regulations pertaining to the packaging, storage, treatment, disposal, and transportation of home-generated sharps waste shall be promulgated prior to January 1, 2009. Such rules and regulations shall provide for public education programs and community outreach programs which shall ensure the proper handling and disposal of such sharps waste.

(iii) Regulate the issuance of permits for the commercial transportation, packaging, storage, and treatment of infectious waste. The state health officer shall establish a reasonable fee schedule for issuance of permits to entities in the business of transporting, packaging, storing, or treating infectious waste for commercial purposes. In addition, the rules and regulations shall provide for the certification and testing of all equipment used to treat infectious waste to assure safety, effectiveness of the equipment, and compliance with regulatory and statutory health regulations. At a minimum the rules shall provide that the testing shall be conducted annually. The provisions of Items (i) and (ii) of this Subparagraph, relative to the certification and testing of all equipment used to treat

infectious waste, shall not apply to an office of a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners, a veterinarian, or a dentist.

(iv) Require that any generator of infectious medical wastes shall only transport such waste with a transporter permitted by the department.

(v) Facilitate the filing and removal of required notices by landowners, lessees, and occupants, pursuant to R.S. 40:4.10.

(vi) Require the state health officer to establish a reasonable fee for the certification and testing of all equipment used to treat infectious waste. Such fee shall be established by rule, in accordance with the Administrative Procedure Act.

(c) Control the spread of tuberculosis by:

(i) Requiring that persons who are students in the health care professions, or volunteers helping in the caring of patients in health care institutions be free of tuberculosis in a communicable state as evidenced by a negative tuberculin skin test, a normal chest X-ray if the skin test is positive, or a statement from a Louisiana licensed physician that the person is noninfectious to others if the chest X-ray is other than normal. If the student or volunteer has a positive tuberculin skin test, or a chest X-ray other than normal, the student or volunteer shall complete a course of chemotherapy for tuberculosis prescribed by a Louisiana licensed physician, or present a signed statement from a Louisiana licensed physician stating that chemotherapy is not indicated. If the student or volunteer is known to be infected with the human immunodeficiency virus (HIV) or has acquired immunodeficiency syndrome (AIDS), he or she shall be required to have a chest X-ray in addition to a skin test for tuberculosis. If the chest X-ray is interpreted as showing any disease, then the student or volunteer will complete a course of chemotherapy for tuberculosis as prescribed by a Louisiana licensed physician or present a signed statement from a Louisiana licensed physician that a course of chemotherapy for tuberculosis is not indicated. In any case, the student or volunteer shall not be denied access to an institutional learning experience or work solely on the basis of being infected with tuberculosis, provided the infection is not communicable.

(ii) Requiring the use of isolation rooms for persons with tuberculosis in a communicable state who are cared for in hospitals or nursing homes, proper air handling in those rooms, and the use of proper masks for all applicable persons, patients, and staff to prevent the spread of infectious respiratory droplets.

(iii) Requiring proper air handling and the use of proper masks to prevent the spread of infectious respiratory droplets in and from aerosol therapy rooms in any institution.

(iv) Requiring any person entering any Louisiana prison as an inmate for forty-eight hours or more to be screened for tuberculosis in a communicable state.

(v) Requiring any person entering any Louisiana jail as an inmate for fourteen days or more to be screened for tuberculosis in a communicable state, where funding is available.

(vi) Requiring all persons with acquired immunodeficiency syndrome (AIDS) or known to be infected with human immunodeficiency virus (HIV), in the process of receiving medical treatment

related to such condition, be screened for tuberculosis in a communicable state.

(vii)(aa) Requiring the isolation and/or quarantine for directly observed therapy (medication taken in the presence of a health care provider) of any person with tuberculosis in a communicable state who has failed to comply with a daily self-administered course of chemotherapy for tuberculosis prescribed by a Louisiana licensed physician.

(bb) Requiring a more restrictive isolation and/or quarantine environment specified by the state health officer or by court order for any person who fails to comply with directly observed therapy under isolation and/or quarantine as provided in Subitem (aa) of this Item.

(cc) Requiring that any person who fails to comply with the more restrictive isolation and/or quarantine environment as provided in Subitem (bb) of this Item shall be considered to have violated the provisions of the state Sanitary Code and be subject to the provisions of R.S. 40:6(B).

(3)(a) The sanitary code shall provide rules and regulations governing burial, transportation, disinterment, or other permitted disposition of dead human remains, to include regulations defining approved methodology that will insure sanitary and dignified disposal.

(b) In order to protect the public from disease associated with the handling of dead human remains, the state health officer, acting through the office of public health, shall prepare and promulgate all rules necessary to ensure that all hospitals will identify corpses that are infected with a contagious disease, when there is actual knowledge of such infection, and report such to embalmers and funeral directors who handle the corpses for interment or cremation. The state health officer shall prepare a list of contagious diseases and such list shall be added to or deleted from as circumstances warrant.

(4) The state's sanitary code shall include rules governing the construction, operation, and maintenance of camps and campsites or parks used for house courts, tent camps, trailer camps, and similar premises used for living and recreational purposes.

(5) The state's sanitary code shall contain rules and regulations governing facilities and premises used for lodging for hire such as hotels, motels, lodging, and boarding houses.

(6) In order to protect the public against disease and nuisance resulting from the improper disposal of sanitary sewage, the state health officer shall prepare and promulgate all rules and regulations necessary to insure that adequate conveyance and disposal facilities are provided for all sanitary sewage, private or public, and in such a manner that will prevent the contamination of surroundings which would have an adverse impact on drinking water supplies, recreational waters, aquatic life, and other mechanisms of human exposure to disease. Standards for the quality of sanitary sewage discharged to the ground surface (ditches, streams, water pools, or other drainage courses), construction of sewerage works, operation of sanitary sewage conveyance, and treatment and disposal facilities shall be included. Such rules and regulations shall not include the licensing of persons engaged in the business or practice of hauling the contents of septic tanks, cesspools, vaults, or similar facilities. Plans and specifications for sewerage works shall be submitted for review and approval to the state health officer or his designee.

(7) In order to protect the public from disease and safety hazards associated with public and private building plumbing systems, including sewer gas intrusion into buildings with the potential of

asphyxiation, and other health hazards and contamination of water supplies by sewage, toxic chemicals, or other similar matter, via "cross connections" and "back siphonage", the state health officer shall prepare and promulgate all rules and regulations necessary to assure safe building plumbing systems. These rules and regulations shall include, but not be limited to, the building water supply piping system, the building drain system, and the building mechanical piping system. Under this authority, a building refers to any structure built, erected, and framed of component structural parts designed for the housing, shelter, enclosure, or support of persons, animals, or property of any kind.

(8)(a) In order to protect the public against disease from water supplied for drinking, culinary, and ablutionary purposes, the state health officer shall prepare and promulgate all rules and regulations necessary to insure that water supplied to the public by public water supplies is obtained from safe and sanitary sources and that such sources are properly protected; is treated, stored, and conveyed in a safe and sanitary manner; and is safe and potable for human use. Standards for drinking water quality (chemical, radiological, and microbiological); water works construction; and water works operations shall be included. In order to assure compliance with promulgated regulations, plans, and specifications for public water works facilities shall be submitted to the state health officer or his designee for review and approval.

(b) The state health officer shall additionally prepare and promulgate rules and regulations necessary to develop and implement a capacity development strategy to assist public water systems to acquire and maintain technical, managerial, and financial capacity to comply with state drinking water regulations which are no less stringent than the national primary drinking water regulations. Such rules and regulations shall include a requirement that all new community water systems and new nontransient noncommunity water systems commencing operation after January 1, 1999, demonstrate technical, managerial, and financial capacity, as defined in such rules and regulations, to comply with state drinking water regulations which are no less stringent than the national primary drinking water regulations in effect on the date of commencement of operations.

(9) In order to protect the public against vectorborne diseases, the state health officer shall prepare and promulgate rules and regulations necessary to insure that disease vectors, including but not limited to mosquitoes and other biting and nonbiting flies, ticks, mites, lice, fleas, true bugs, and rodents are monitored and controlled at levels sufficient to prevent or abate outbreaks of diseases.

(10) In order to protect the public health and health-safety, the state health officer shall prepare and promulgate rules and regulations relative to public and private schools, jails and lockups, public and private buildings, including public and private hospitals and nursing homes and similar buildings where people congregate. In order to assure compliance with promulgated regulations, plans and specifications for such public and private building structures and facilities shall be submitted to the state health officer or his designee for review and approval. These rules and regulations shall apply to new buildings, structures, and facilities, as well as modifications to existing ones, and shall include space requirements, ventilation, heating and air conditioning, lighting, waste storage and disposal, and other similar factors affecting public health.

(11) In order to protect the public from disease and injuries associated with water contact recreation (swimming), the state health officer shall prepare and promulgate rules and regulations necessary to insure that public swimming pools and recreational bathing places (natural and artificial) are

constructed, operated, and maintained in a safe and sanitary manner. These rules may require the submittal of appropriate plans and specifications for review and approval. These rules and regulations shall insure that the design, construction, and operation of these facilities is such that the public is protected against the transmission of disease or injury by the establishment of water quality standards (chemical, physical, and bacterial); by proper arrangement of the physical features of the site or facility; and by proper procedures for supervision and maintenance of such premises.

(12) In order to protect the public health, the state health officer shall prepare and promulgate rules and regulations relative to new rendering facilities and modifications to existing facilities. These rules and regulations shall relate to, but not be limited to, procedures for the review and approval of plans, requirements for approval by the state health officer or his designee prior to contracting for the construction of rendering plants, requirements for obtaining a permit to operate a rendering plant before operation begins, requirements for closing down a rendering plant already in operation if any condition occurs which might adversely affect the health of the community. Factors that shall be regulated include operation, containment of solid, liquid, or gaseous animal materials and byproducts during processing, storage, or transportation, odors, cleanliness, utilization of products and byproducts, and identification marking of products and byproducts.

(13) The state health officer, through the office of health services and environmental quality, shall be expressly empowered and authorized to issue emergency rules and orders when necessary and for the purposes of controlling nuisances dangerous to the public health and communicable, contagious, and infectious diseases, and any other danger to the public life and health and health-safety.

B.(1) All sanitary and food and drug inspections to monitor compliance with the provisions of the state sanitary code shall be conducted by licensed sanitarians in the employ of the Department of Health and Hospitals, or by similarly licensed sanitarians in the employ of a local parish or municipal governing authority.

(2) In instances where such an inspection discloses a violation of the state Sanitary Code, the business entity or person deemed to be responsible shall be given an opportunity to correct the noted deficiency, and, if upon reinspection the premises are found to be still in need of correction of the previously cited violation, the district attorney or, in cases involving pollution of streams, rivers, lakes, bayous, or ditches located in public rights of way, the attorney general, at the request of the Department of Health and Hospitals, may, in his sole discretion, seek an injunction from the district court to enforce the provisions of the state Sanitary Code. The district attorney or the attorney general shall have the power to appoint an attorney of the Department of Health and Hospitals as a special assistant district attorney or a special assistant attorney general to prosecute the case. The proceeding before the district court shall be an adversary proceeding and each party shall have the power to call witnesses and subpoena documents and records. In any such proceeding, no district court shall issue an injunction to enforce any provision which it determines to be physically beyond the control of the person or business entity to comply with, or in conflict with, other provisions of state or federal law or regulations.

(3) In instances where such an inspection discloses a violation of the state Sanitary Code involving pollution of streams, rivers, lakes, bayous, or ditches located in public rights of way, the business entity or person deemed to be responsible shall be given an opportunity to correct the noted deficiency, and, if upon reinspection the previously cited violation is found to still exist, the state

health officer is hereby authorized, after due process in accordance with the Administrative Procedure Act, to impose sanctions as follows:

(a) In the case of establishments which operate under license or permit issued by the office of public health of the Department of Health and Hospitals, the state health officer may suspend or revoke the existing license or permit.

(b) In the case of establishments which operate without license or permit issued by the office of public health or where establishments continue to operate after the license or permit has been suspended or revoked, the state health officer may issue a civil compliance order directing the business entity or person deemed responsible for the establishment to correct the violation noted and impose a fine of one hundred dollars per day for each day the violation has not been corrected up to a maximum of ten thousand dollars. The fine shall commence on the day following the date of permit revocation or suspension, or the day following the date specified for compliance in the civil compliance order issued by the state health officer.

(c) All fines imposed under this Section shall be payable to the office of public health of the Department of Health and Hospitals which shall be deposited into the state general fund.

(d) If civil action is necessary to recover fines imposed under this Section, the offender shall be liable for the amount of the fine, legal interest from the date of assessment, and all costs of recovery, including legal fees and court costs.

(e) The state health officer with the approval of the secretary of the Department of Health and Hospitals may settle or resolve out of court any suit for recovery of fines if deemed in the best interest of the state.

(4) Nothing herein shall prohibit the state health officer acting through the office of public health, with the concurrence of the secretary of the Department of Health and Hospitals, from seeking civil injunctive relief from a district court to assist in enforcing emergency orders, when there exists serious and imminent danger to the public health. The proceeding before the district court shall be an adversary proceeding, and each party shall have the power to call witnesses and subpoena documents and records. In any such proceeding, no district court shall issue an injunction to enforce any provision which it determines to be physically beyond the control of the person or business entity to comply with, or in conflict with other provisions of state or federal law or regulations.

(5) Paragraphs (B)(2) and (3) of this Subsection shall not apply to waste waters and wastes in discharges from industrial facilities which are subject to permitting under the Louisiana Water Control Law (R.S. 30:2071 et seq.) or the federal Clean Water Act (42 USC §1251 et seq., as amended), nor to waste waters from industrial facilities in ditches upstream of state or federal waste water discharge points.

Acts 1976, No. 346, §1; Amended by Acts 1978, No. 786, §5, eff. July 17, 1978; Acts 1982, No. 619, §1; Acts 1986, No. 885, §1; Acts 1988, No. 942, §1; Acts 1990, No. 242, §1; Acts 1990, No. 267, §1; Acts 1993, No. 147, §1, eff. May 26, 1993; Acts 1993, No. 289, §1, eff. June 2, 1993; Acts 1993, No. 753, §1; Acts 1997, No. 814, §1; Acts 2001, No. 820, §2; Acts 2002, 1st Ex. Sess., No. 14, §1, eff. April 18, 2002; Acts 2005, No. 469, §1; Acts 2006, No. 846, §1; Acts 2007, No. 267, §1; Acts 2008, No. 56, §3, eff. July 1, 2009; Acts 2009, No. 330, §1, eff. Jan. 1, 2010; Acts 2012, No.

620, §1, eff. June 7, 2012; Acts 2013, No. 220, §17, eff. June 11, 2013.

§5. General powers and jurisdiction

1. The state health officer and the office of public health of the Department of Health and Hospitals shall have exclusive jurisdiction, control, and authority:

- (1) To isolate or quarantine for the care and control of communicable disease within the state.
- (2) To take such action as is necessary to accomplish the subsidence and suppression of diseases of all kinds in order to prevent their spread.
- (3) To enforce a sanitary code for the entire state containing provisions for the improvement and amelioration of the hygienic and sanitary conditions of the state.
- (4) To enact provisions regulating the standards of health and decency and building regulations of all prisons, jails, lock-ups, and camps where prisoners are detained or confined.
- (5) To supervise, inspect, and issue sanitation permits for water supplies, slaughterhouses, cold storage plants, all places of public accommodation, and the handling and control of hygienic conditions with respect to all food.
- (6) To take such action as may be authorized by the administrator of the Environmental Protection Agency under the federal Safe Drinking Water Act of 1974.
- (7) To make all sanitary inspections and provide for the issuance of health permits.
- (8) Over the enforcement of controls and issuance of permits for the distribution and handling of dangerous drugs.
- (9) Over the treatment and disposal of municipal or domestic sewage.
- (10) Over the reporting of communicable diseases.
- (11) Over the gathering, keeping, reporting, and tabulating of vital and mortuary records and statistics for all parishes of the state.
- (12) Over the providing of facilities for vaccination.
- (13) To assist in the supervision and operation of parish and municipal health units and departments.
- (14) Over the regulation of the carriage and transportation of persons, freight, and dead bodies brought into the state or transported through or in the state as they may affect public health.
- (15) Over the sanitary inspection of meat, milk, and other products which may affect public health and safety.
- (16) Over the sanitary conditions required at any public gathering or meeting.
- (17) Over the adoption of rules and regulations regarding public health, sanitary, and hygienic subjects, including those for standards governing noxious odors.

(18) To promulgate rules and regulations in accordance with the Administrative Procedure Act to establish a fee schedule, based on ability to pay or eligibility for third party reimbursement, for services provided by the handicapped children's services program and maternal and child health programs in the office of public health.

(19) To conduct health inspections and issue health permits through state employed licensed sanitarians, or by licensed sanitarians of parish health units or departments.

(20) Over those functions of the state provided by law relating to environmental quality and pollution control which are related to the public health and which are specifically assigned to the department by statute.

(21)(a) To conduct health, safety, and sanitation inspections, through state employed licensed sanitarians, of any place upon receipt of a complaint that the department determines shows appropriate and sufficient grounds to indicate a health hazard or sanitary code violation may exist, regardless of whether such place is licensed or not, or otherwise regulated.

(b) In order to comply with the provisions of Subparagraph (a), a licensed sanitarian may, if necessary, seek and obtain an appropriate order or warrant from the state district court for the judicial district in which the place to be inspected is located to enter, examine, and inspect such place for a health hazard or sanitary code violation.

Acts 1976, No. 346, §1. Amended by Acts 1978, No. 786, §5, eff. July 17, 1978; Acts 1979, No. 449, §4, eff. Jan. 1, 1980; Acts 1989, No. 713, §1; Acts 1990, No. 574, §1; Acts 1993, No. 180, §1, eff. May 31, 1993; Acts 1999, No. 993, §1, eff. July 9, 1999.

§6. Penalties for violation of state Sanitary Code

1. A. Except as provided otherwise in Subsection H of this Section, whoever violates any provision of the sanitary code, except those provisions dealing with isolation or quarantine of communicable disease, shall be fined not more than twenty-five dollars or be imprisoned for not more than ten days, or both, for the first offense. For the second offense, he shall be fined not less than twenty-five dollars nor more than fifty dollars or be imprisoned for not less than ten days nor more than thirty days, or both. For any subsequent offense, he shall be fined one hundred dollars or be imprisoned for not less than thirty days, or both.

B.(1) Whoever violates those provisions of the sanitary code dealing with the isolation or quarantine of communicable disease, or any person having such a communicable disease that may cause a severe health hazard to the community and who, after having been officially isolated or quarantined by any local health officer or by the state health officer or the duly authorized representative of either health officer, violates the provisions of the isolation or quarantine shall be fined not less than fifty dollars nor more than one hundred dollars or be imprisoned for not more than two years, or both.

(2) Any person convicted of violating the provisions of the sanitary code regarding isolation or quarantine under this Section may be confined either to the parish jail, to any state-operated hospital, or to the hospital section of the state penitentiary, at the discretion of the court. If, however, any person convicted under this Section and committed to any state-operated hospital unlawfully leaves

that institution before serving his full sentence, the district court shall then commit him to the hospital section of the state penitentiary. If the superintendent of any state-operated hospital or the medical director of the hospital at the state penitentiary determines that any person committed to their respective institution under this Section is no longer harboring a communicable disease or if the disease is no longer in a communicable or infectious state and the person has not completed serving the sentence imposed upon him, the said superintendent or medical director shall transmit this information immediately to the district court which committed the person, with a request for commutation of sentence, and said district court is hereby authorized, in its discretion, to commute said sentence. Nothing in this Section is to be construed as depriving any individual of the right to decline any medical treatment or to provide other care or treatment for himself or herself at his or her own expense, which care does not cause a severe health hazard to the community, provided that the sanitary and quarantine laws, rules, and regulations relating to communicable disease are complied with.

C.(1) In addition to a criminal prosecution, the district attorney may, upon request of the state health officer or secretary of the Department of Health and Hospitals, or his duly authorized representative, petition the district court, and the district court may, upon such petition and for cause, restrain any person by temporary or permanent injunction for the violation of any provision of the state Sanitary Code when necessary to arrest or prevent epidemics or to abate any imminent menace to the public health.

(2) The secretary of the Department of Health and Hospitals or the state health officer may also petition the court to seek injunctive relief for violations of the state Sanitary Code.

D. In addition to a criminal prosecution, to assist in enforcement and encourage abatement of violations of the state Sanitary Code, the secretary of the Department of Health and Hospitals, upon the recommendation of the state health officer, or their duly authorized representatives, may assess civil fines or other sanctions, including but not limited to requesting injunctions, or both, against violators of the state Sanitary Code. Injunctions may be sought for Class A and Class B violations only. The secretary of the Department of Health and Hospitals, upon the recommendation of the state health officer, may exercise his discretion and mitigate these civil fines or other sanctions, or both, in cases where he is satisfied the violator has abated the violation and demonstrated a sincere intent to prevent future violations. These civil fines shall not exceed one hundred dollars per day per violation and shall not exceed ten thousand dollars per violator per calendar year. These civil fines or other sanctions, or both, may include but are not limited to:

(1) Requiring the violator or his employee designee to attend training seminars in the area of the violator's operations, in lieu of a civil fine; or

(2) Civil fines determined by the gravity of the violation. These civil fines shall be assessed only after a violator of the state Sanitary Code has received notice of violation and been furnished an opportunity to comply, and upon reinspection been found to still be in violation of the state Sanitary Code and had a compliance order issued against the violator to remedy the violation of the state Sanitary Code, and the violation continues. These civil fines shall not apply to those areas of the state Sanitary Code which have their own special penalty and fine provisions by state or federal statute or regulation, including but not limited to the milk and dairy program and public water system supervision program.

E. In addition to a criminal prosecution, to assist in collection of license or permit renewals, the Department of Health and Hospitals, office of public health, shall assess late charges for failure to timely renew licenses or permits issued by the Department of Health and Hospitals, office of public health, which late fees shall be ten percent of the license or permit fee, but no more than one hundred dollars, if paid to and received by the Department of Health and Hospitals after thirty days of the due date, and if not paid and received within ninety days of the due date, the renewal fee late charge shall be equal to the original renewal fee.

F. The provisions of Paragraph (C)(2), and Subsections D and E shall not apply to floating camps, including but not limited to houseboats which are classified as vessels by the United States Coast Guard.

G.(1) In all cases wherein the secretary and state health officer have issued an order assessing a civil penalty or requiring specific compliance actions to be undertaken, which order has become final as a result of all appeals being exhausted or delays having lapsed, if the penalty assessed has not been paid or the actions undertaken, attorneys for the department may file an ex parte petition in the district court for the parish in which the violation occurred, in accordance with Code of Civil Procedure Article 2782, attaching a certified copy of the order to the petition, seeking to make the order of the secretary and state health officer a judgment of the district court and making the judgment executory.

(2) The district court shall grant the relief prayed for and issue a judgment without a trial de novo of the facts supporting the order. Upon good cause shown and upon the posting of a bond in favor of the state as the court may require, a person against whom a judgment is rendered requiring specific compliance actions to be undertaken may, within ten days of service of the judgment, seek an extension, modification, or suspension of the judgment by summary proceeding. The hearing shall be limited to the issue of whether or not good cause has been shown for granting an extension, modification, or suspension of the order and whether or not compliance has taken place.

H. Any violation of the rules and regulations contained in Chapter 3 of Part IX of Title 51 of the Louisiana Administrative Code pertaining to refrigeration of oysters, clams, and mussels, shall constitute a class four violation as delineated in R.S. 56:34(A) but shall not include forfeiture of anything seized in connection with the violation as required by R.S. 56:34(B).

Acts 1976, No. 346, §1. Amended by Acts 1977, No. 401, §1; Acts 2001, No. 516, §1; Acts 2004, No. 772, §1; Acts 2008, No. 574, §1; Acts 2013, No. 35, §1.

§8. Investigations; entry on and inspection of premises; order to compel attendance of witnesses or production of documents

1. A. The state health officer shall conduct investigations to determine compliance with the state sanitary code or health and sanitary laws of the state and shall investigate any circumstances which he has determined pose a threat or reasonable expectation of a threat to the public health.

B. In conducting an investigation pursuant to this Section, the state health officer or any duly

authorized representative may enter, examine, and inspect all grounds, structures, public buildings, and public places in execution of a warrant issued in accordance with the constitution and laws of Louisiana.

C. In conducting an investigation pursuant to this Section, the state health officer may petition the district court of the parish where the person, agency, organization, or legal entity resides, may be found, transacts business, or has its principal place of business for an order to compel the attendance of a witness or to compel the production of documents or records anywhere in the state, if information relevant to the inspection or investigation is in the possession of the witness or is contained in the documents or records.

D. The clerk of court of the parish where the district court is located that issues an order under this Section shall mail a certified copy of the order and certified copy of the state health officer's petition to the parties indicated in the state health officer's petition to receive service of process of the order and petition. The clerk shall file a certificate in the record showing the date on which, and the counsel and parties to whom, the certified copy of the order and petition were mailed. The mailing of the certified copy of the order and petition shall be effective service of process on residents and nonresidents under R.S. 13:3201 et seq.

Acts 1976, No. 346, §1; Acts 1999, No. 667, §1.

§25. Entry on and inspection of premises

1. The parish health officer and every person duly authorized may enter, examine and inspect all grounds, structures, public buildings and public places in execution of a warrant issued in accordance with the constitution and the laws of Louisiana.

Acts 1976, No. 346, §1.