WEST VIRGINIA CODE: §11-14C-41

§11-14C-41. Willful commission of prohibited acts; criminal penalties.

(a) Any person who willfully commits any of the following offenses is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $5,000 nor more than $25,000, or imprisoned in the county or regional jail not more than one year, or both fined and imprisoned:

(1) Fails to obtain a license required by this article prior to performing an act for which the license is required;

(2) Fails to pay to this state no more than thirty days after the date the tax is due the tax levied by this article;

(3) Makes a false statement in an application, return, ticket, invoice, statement, or any other document required under this article;

(4) Fails to file no more than thirty days after it is due any return required by this article;

(5) Fails to maintain any record required by this article;

(6) Makes a false statement in an application for a refund;

(7) Refuses to allow the commissioner to examine the person's books and records concerning motor fuel;

(8) Fails to make a required disclosure of the correct amount of fuel sold or used in this state;

(9) Fails to file a replacement or additional cash bond or continuous surety bond as required under this article;

(10) Fails to show or give a shipping document as required under this article;

(11) Refuses to allow a licensed distributor, licensed exporter, or licensed importer to defer payment of tax to the licensed supplier or permissive supplier, as required by section twenty of this article;

(12) Uses, delivers, or sells any aviation fuel for use or intended for use in highway vehicles or watercraft;

(13) Interferes with or refuses to permit seizures authorized under section forty-two of this article;

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(14) Delivers motor fuel from a transport vehicle to the fuel supply tank of a highway vehicle;

(15) Dispenses into the supply tank of a highway vehicle, watercraft or aircraft any motor fuel on which tax levied by section five of this article has not been paid;

(16) Allows to be dispensed into the supply tank of a highway vehicle, watercraft or aircraft any motor fuel on which tax levied by section five of this article has not been paid;

(17) Purchases motor fuel from an unlicensed distributor, unlicensed importer or unlicensed supplier; or

(18) Uses twenty-five or less gallons of dyed diesel fuel for a use that the user knows or has reason to know is a taxable use of the motor fuel, or sells twenty-five or less gallons of dyed diesel fuel to a person who the seller knows or has reason to know will use the motor fuel for a taxable purpose.

(b) Any person who willfully commits any of the following offenses with the intent either to evade or circumvent the tax levied by section five of this article or to assist any other person in efforts to evade or circumvent the tax levied by section five of this article is guilty of a felony and, upon conviction thereof, shall be fined not less than $25,000 nor more than $50,000, or imprisoned in a state correctional facility not less than one nor more than five years, or both fined and imprisoned:

(1) Alters, manipulates, replaces, or in any other manner tampers or interferes with, or causes to be altered, manipulated, replaced, tampered or interfered with, a totalizer attached to motor fuel pumps to measure the dispensing of motor fuel;

(2) Fails to pay motor fuels taxes and diverts the tax proceeds for other purposes;

(3) As a licensee or the agent or representative of a licensee, converts or attempts to convert motor fuel tax proceeds for the use of the licensee or the licensee's agent or representative, with the intent to defraud this state;

(4) Collects motor fuel taxes when not authorized or licensed by the commissioner to do so;

(5) Imports motor fuel into this state in contravention of this article;

(6) Conspires with any other person or persons to engage in an act, plan, or scheme to defraud this state of motor fuels tax proceeds;

(7) Uses in excess of twenty-five gallons of any dyed diesel fuel for a use that the user knows or has reason to know is a taxable use of the motor fuel, or sells in excess of twenty-five gallons of any dyed diesel fuel to a person who the seller knows or has reason to know will use the motor fuel for a taxable purpose;

(8) Alters or attempts to alter the strength or composition of any dye or marker in any dyed

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diesel fuel intended to be used for a taxable purpose; or

(9) Fails to remit to the commissioner any tax levied pursuant to this article, if the person has added, or represented that he or she has added, the tax to the sales price for the motor fuel and has collected the amount of the tax.

(c) Each offense is subject to a separate criminal penalty.

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