WEST VIRGINIA CODE: §11-17-19A

§11-17-19a. Criminal penalties.

(a) Misdemeanor penalties. -- If any person commits any act set forth in this subsection, the person shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $1,000 nor more than $25,000, or imprisoned in a county or regional jail for not more than one year, or both fined and imprisoned. Each act constitutes a separate misdemeanor:

(1) The person makes any false entry upon an invoice, package or container of tobacco products that is required to be made under the provisions of this article;

(2) The person with intent to evade the tax imposed by this article, presents any false entry upon an invoice, package or container of tobacco products for the inspection of the commissioner or the commissioner's authorized deputy, agent or employee;

(3) The person prevents or hinders the commissioner or the commissioner's authorized deputy, agent or employee from making a full inspection of any place where tobacco products subject to the tax imposed by this state are sold or stored;

(4) The person prevents or hinders the full inspection of invoices, books, records or papers required to be kept under the provisions of this article;

(5) The person sells cigarettes in this state without there having been first affixed to each individual package of cigarettes the stamp or meter impression required to be affixed to the package by this article;

(6) The person sells other tax-not-paid tobacco products in this state to a subjobber, retail dealer or consumer in this state;

(7) The person, being a retail dealer or subjobber in this state, has in his or her possession packages of cigarettes not bearing the stamps or meter impression required to be affixed to the package by this article;

(8) The person, being a retail dealer or subjobber in this state, has in his or her possession tax-not-paid packages of other tobacco products;

(9) The person fails to produce on demand by the commissioner, or the commissioner's authorized deputy, agent or employee, invoices of all tobacco products purchased or received by him or her within two years prior to the date of the demand, unless upon satisfactory proof it is shown that the nonproduction is due to providential or other causes beyond his or her control;

(10) The person being a wholesale dealer sells tobacco products to any person in this state other than to another wholesaler, or to a subjobber or retail dealer;

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(11) A person who is not a wholesaler or subjobber in this state sells tobacco products to a retail dealer;

(12) A person being a retail dealer purchases or acquires tobacco products from any person other than a person who is a wholesaler or subjobber in this state;

(13) The original wholesaler who purchases unstamped cigarettes or tax-not-paid other tobacco products from a manufacturer or other person fails to pay the excise tax imposed by this article and fails to affix the required stamps or meter impressions;

(14) A person who is not a wholesaler of tobacco products, as defined in this article, has in his or her possession within this state more than twenty packages of cigarettes, that do not bear cigarette tax paid indicia of this state, stamps or meter impressions, or other tax-not-paid tobacco products, if the retail value of the tobacco products is more than $30 for all tax-not-paid tobacco products. The possession shall be presumed to be for the purpose of evading the payment of the taxes imposed or due on the tobacco products;

(15) The person violates any of the provisions of this article or any lawful rule promulgated by the commissioner under authority of article ten of this code.

(b) Felony penalties. -- If any person commits any act set forth in this subsection, the person shall be guilty of a felony and, upon conviction thereof, shall be fined not less than $25,000 nor more than $50,000, and imprisoned in a state correctional facility for a term of not less than one year nor more than five years. Each constitutes a separate felony:

(1) The person falsely or fraudulently makes, forges, alters or counterfeits any stamps or meter impressions prescribed, or defined, by the provisions of this article, or its related rules;

(2) The person knowingly and willfully makes, causes to be made, purchases, receives or has in his or her possession, any device for forging or counterfeiting any stamp or meter impression;

(3) The person has in his or her possession any stamps not properly issued by the commissioner, or the commissioner's authorized employee, agent or deputy;

(4) The person tampers with or alters any stamping device authorized by the commissioner; or

(5) The person uses more than once any stamp or meter impression provided for and required by this article for the purpose of evading the tax imposed by this article.

(c) Deposit of penalties. -- All penalties collected under the provisions of this section shall be paid into the General Revenue Fund.

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