

# WEST VIRGINIA CODE: §16-27B-14

## **§16-27B-14. Enforcement; civil penalties.**

(a) Any person who violates any licensing or registration provision of this article or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license or registration certificate issued thereunder or commits any violation for which a license or registration certificate may be revoked under rules or regulations issued under this article may be subject to a civil penalty, to be imposed by the department, not to exceed \$10,000. If any violation is a continuing one, each day of such violation shall constitute a separate and distinct violation for the purposes of computing the applicable civil penalty. The department shall have the power to compromise, mitigate, or remit such penalties.

(b) Whenever the department proposes to subject a person to the imposition of a civil penalty under the provisions of this section, it shall notify such person in writing;

(1) Setting forth the date, facts, and nature of each act or omission with which the person is charged;

(2) Specifically identifying the particular provision or provisions of the article, rule, regulation, order, license, or registration certificate involved in the violation; and

(3) Advising of each penalty which the department proposes to impose and its amount.

Such written notice shall be sent by registered or certified mail by the department to the last known address of such person. The person so notified shall be granted an opportunity to show in writing, within such reasonable period as the department shall by rule prescribe, why such penalty should not be imposed. The notice shall also advise such person that upon failure to pay the civil penalty subsequently determined by the department, if any, the penalty may be collected by civil action. Any person upon whom a civil penalty is imposed may appeal such action under §29A-1-1 *et seq.* of this code.

(c) The department, or upon the request of the department, the Attorney General, is authorized in the name of the state to institute a civil action to collect a penalty imposed pursuant to this section. The department, or upon the request of the department, the Attorney General, shall have the exclusive power to compromise, mitigate, or remit such civil penalties as are referred for collection.

(d) All moneys collected from civil penalties shall be deposited in the Radiation Licensure and Inspection Fund created pursuant to §16-27B-9 of this code.

(e) In addition to the provisions of §16-27B-5 of this code, the department shall have the power to enter at all reasonable times, or in cases of an emergency, upon any private or public property for the purpose of determining whether or not there is compliance with or

violation of the provisions of this article and rules issued thereunder, except that entry into areas under the jurisdiction of the federal government shall be effected only with the concurrence of the federal government or its duly designated representative.