WEST VIRGINIA CODE: §16-9D-8

§16-9D-8. Penalties and other remedies.

(a) Revocation of business registration certificate and civil money penalty. -– In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a distributor, stamping agent or any other person has violated subsection (c), section three of this article, or any rule adopted pursuant thereto, the commissioner may revoke or suspend the business registration certificate of the distributor, stamping agent or other person in the manner provided by article twelve, chapter eleven of this code. Each stamp affixed and each sale or offer to sell cigarettes in violation of subsection (c), section three of this article constitutes a separate violation. The commissioner may also impose a civil penalty in an amount not to exceed the greater of five hundred percent of the retail value of the cigarettes or $5,000 upon a determination of violation of subsection (c), section three of this article or any rules adopted pursuant thereto. The penalty shall be imposed and collected in the manner that tax is assessed and collected under article ten, chapter eleven of this code. The amount of penalty collected shall be deposited in the tobacco control special fund created in section nine of this article.

(b) Contraband and seizure. –– Any cigarettes that have been sold, offered for sale, or possessed for sale, in this state, in violation of subsection (c), section three of this article, shall be considered contraband under article seventeen, chapter eleven of this code and the cigarettes are subject to seizure and forfeiture as provided in article seventeen, and all cigarettes seized and forfeited shall be destroyed and not resold: Provided, That this subsection shall not prohibit a stamping agent or distributor from possessing unstamped containers of cigarettes held in inventory for delivery to, or for sale in, another state.

(c) Injunction. -– The Attorney General, on behalf of the commissioner, may seek an injunction to restrain a threatened or actual violation of subsection (c), section three of this article, subsection (a), section five of this article, or subsection (d) of said section five, by a distributor, stamping agent or other person and to compel the distributor, stamping agent or other person to comply with these subsections: Provided, That this subsection shall not prohibit a stamping agent or distributor from possessing unstamped containers of cigarettes held in inventory for delivery to, or for sale in, another state. In any action brought pursuant to this section, the state is entitled to recover the costs of investigation, costs of the action and reasonable attorney fees.

(d) Unlawful sale and distribution. -– It is unlawful for a person to:

(1) Sell or distribute cigarettes; or

(2) Acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in this state in violation of subsection (c), section three of this article. A violation of this subsection shall be

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a misdemeanor punishable as provided in section nineteen-a, article seventeen, chapter eleven of this code.

(e) Unfair trade practice. -– A person who violates subsection (c), section three of this article, engages in an unfair and deceptive trade practice in violation of article six, chapter forty-six-a of this code.

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