WEST VIRGINIA CODE: §16-9H-15

§16-9H-15. Criminal violations; penalties; and administrative sanctions.

(a) Any person who, by himself or herself or acting through another, directly or indirectly, violates any of the provisions of this article for which no other penalty is provided, shall, for the first offense, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $2,500 or confined in jail for not more than 30 days, or both fined and confined.

(b) Any person who, by himself or herself or acting through another, directly or indirectly, and for the second and each subsequent violation of any of the provisions of this article for which no other penalty is provided, he or she shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or confined in jail for not more than six months, or both fined and confined. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license.

(c) A retailer who commits an act in violation of §16-9H-10 of this code and the labeling requirements of this article shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than $1,000 or confined in jail not more than one year: *Provided*, That a retailer who commits a second violation of §16-9H-10 of this code and the labeling requirements of this article, shall be guilty of a felony and, upon conviction thereof, be fined not less $5,000 or confined in jail not more than two years: *Provided, however*: That a retailer who commits a third violation of §16-9H-10 of this code and the labeling requirements of this article, shall guilty of a felony and, upon conviction thereof, be fined not less $10,000 or confined in jail not more than three years*: Provided further*, That upon each subsequent conviction after a third conviction, such individual shall be guilty of a felony and shall be imprisoned for not less than 10 years nor fined more than $100,000.

(d) Administrative sanctions. —

(1) In the case of any person or entity holding a permit issued by the commissioner under this article charged with any criminal violation enumerated in this section, in addition to such criminal penalties imposed, the commissioner may impose administrative sanctions including, but not limited to, permanent revocation of any one or more permits held by the violator, revocation of one or more permits held by the violator for a period of time to be determined by the commissioner, suspension of any one or more permits held by the violator for a period of time to be determined by the commissioner, fine or fines to any one or more permits held by the violator not to exceed $1,000 per each violation as determined by the commissioner, or non-issuance of a permit upon application of a violator. For purposes of this subsection, administrative sanctions may be imposed by the commissioner upon or against any alter ego, agent, representative, or person or entity acting on behalf of, or in the interest of, a violator.

(2) The commissioner may impose the administrative sanctions in §16-9H-15(d)(1) of this

WV Legislature

code upon any person or entity under indictment for any of the criminal violations during, and during the pendency of, a criminal trial therefor.

(e) Nothing in this article prohibits an authorized enforcement agent of the commissioner or a person who is at least 18 years of age from purchasing or possessing vapor product when he or she is acting upon the request of, or under the direction and control of any member of a state, federal, or local law-enforcement agency, or the commissioner while the agency is conducting an investigation or other activity relating to the criminal or administrative enforcement of this article.

WV Legislature