WEST VIRGINIA CODE: §16-9H-9

§16-9H-9. Violations.

(a) The regulated aspects of a vape or smoke retailer, manufacturer, or wholesaler subject to this article shall be subject to periodic inspections by the commissioner for the purpose of verifying compliance with the terms and conditions of this article.

(b) Whenever a violation of this article occurs, or is alleged to have occurred, any person may file a written complaint with the county magistrate court. The complaint must state fully and clearly the causes and basis thereof. The commissioner shall properly record such complaints, conduct appropriate investigation, and act thereon as this article provides.

(c) If the commissioner finds that any of the provisions of this article are violated, whether reported by any person or by any commission, board, agency, officer, or employee of the county commission, or by his or her own observation, he or she shall notify in writing the manager of the vape or smoke retailer. Service of the written notice shall be deemed complete upon sending the notice by certified mail to the last known address of the manager or by personal service by the office of the county sheriff or county health department personnel. The notice shall include the following:

(1) The street address or legal description of the property involved;

(2) A statement indicating the nature of the violation and the specific section of this article that has been violated;

(3) A description of the action required to correct the violation;

(4) A statement indicating the time within which compliance with this article must be accomplished; and

(5) A statement advising that upon failure to comply with the requirements within said time, the county shall take such enforcement procedures as may be required by this article.

(d) The commissioner is authorized to take any of the following actions:

(1) Order the discontinuance of illegal use of land or improvements;

(2) Order the removal of any vapor products sold in this state in violation of the provisions of §16-9H-10(a) or §16-9H-14 of this code, or any illegal improvements or structures of illegal additions, alterations, or structural changes;

(3) Order the discontinuance of any illegal work being done;

(4) Issue a written notice to the licensee who shall immediately cease and desist all use(s)

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which are not in compliance with this article;

(5) Any other action authorized by this article to ensure compliance with its provisions; and

(6) Any other remedies provided by law, including, without limitation, injunction, or abatement by judicial proceeding in the magistrate or circuit court of appropriate jurisdiction. Nothing contained in this article shall be deemed to prevent the commissioner from pursuing other lawful actions to prevent or remedy violations of this article. The Attorney General shall, upon request, provide legal counsel and services to the commissioner in all administrative proceedings and in all proceedings in any circuit court and the West Virginia Supreme Court of Appeals without additional compensation.

(e) In addition to any other remedies set forth in this article, the commissioner may impose a monetary fine of not less than $100 nor more than $500 against the manager or any person or persons who violate this article, or any order or notice issued thereunder. Each day during which any violation of this article continues constitutes a separate offense.

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