WEST VIRGINIA CODE: §17A-8-12

§17A-8-12. Recovery of special mobile equipment; chain of custody; sale of unclaimed special mobile equipment; penalties.

(a) When an item of special mobile equipment has been lawfully seized and remains in the custody of the law- enforcement authority having seized it, if at any time the true owner thereof shall appear and prove to the satisfaction of such law-enforcement authority his ownership of and entitlement to such item of special mobile equipment, it may be returned to such owner subject to its being made available for use in any criminal prosecution under this article.

(b) The law-enforcement authority shall take reasonable steps to locate the owner, including, but not limited to, notifying local equipment dealer, notifying equipment manufacturer and placing legal advertisements detailing confiscated equipment in newspapers. The law-enforcement authority shall take reasonable precautions to protect the equipment. The owner of the special mobile equipment shall pay the costs incurred by the law-enforcement authority for advertising, transporting and storing such special mobile equipment.

(c) If, after six months, no person has appeared and proved he is the true owner of an item of special mobile equipment seized under this article and prosecution has been instituted, the court in which such prosecution has been instituted may sell said item of special mobile equipment under such terms as are commercially reasonable: Provided, That notice of sale shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area shall be the county in which such prosecution was initially instituted. The proceeds of such sale shall be applied, first, to the payment of any expenses incurred in taking possession, storing and selling such special mobile equipment; and the balance, if any, shall be paid over to the general receiver of the court in the county in which the prosecution was instituted for its application to that county's general revenues.

(d) Notwithstanding the provisions of article eleven of this chapter, any person convicted of a felony under the provisions of subsection (b), section six, subsection (b), section seven or subsection (b), section eight of this article shall be confined in the penitentiary not less than one nor more than ten years and fined not more than $500, or, in the discretion of the court, be confined in the county jail for not more than one year and be fined not more than $500.

Notwithstanding the provisions of article eleven of this chapter, any person convicted of a misdemeanor under the provisions of subsection (b), section six of this article shall be confined in the county jail for a term not to exceed one year or fined not more than $500, or both.

WV Legislature