WEST VIRGINIA CODE: §17C-17A-10

§17C-17A-10. Penalties for violation of weight laws; impounding vehicles.

(a) Any owner, lessee or borrower of a commercial motor vehicle or combination of vehicles transporting coal who operates or permits to be operated on any highway the vehicle or combination of vehicles with a total gross weight load imposed upon the highway by any one group of two or more consecutive axles in excess of that permitted by section five of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine based on the number of pounds in excess of the registered weight, or in excess of allowable weights for single axle, or in excess of allowable weights for groups of two or more consecutive axles, in accordance with the following schedule:

Excess Weight Amount of Fine

1 to 4,000 pounds. 1 cent per overweight pound

4,001 to 8,000 pounds. 3 cents per overweight pound

8,001 to 12,000 pounds. 7 cents per overweight pound

12,001 to 16,000 pounds 10 cents per overweight pound

16,001 to 20,000 pounds 15 cents per overweight pound

20,001 to 40,000 pounds 30 cents per overweight pound

40,001 pounds or more 45 cents per overweight pound

(b) Upon a second or subsequent conviction within two years thereafter, the owner, lessee or borrower shall be punished by a fine according to the following schedule:

Excess Weight Amount of Fine

1 to 4,000 pounds 1 cent per overweight pound

4,001 to 8,000 pounds 5 cents per overweight pound

8,001 to 12,000 pounds 10 cents per overweight pound

12,001 to 16,000 pounds 15 cents per overweight pound

16,001 to 20,000 pounds 20 cents per overweight pound

20,001 to 40,000 pounds 40 cents per overweight pound

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40,001 pounds or more 80 cents per overweight pound

(c) The fines specified in subsections (a) and (b) of this section are mandatory and may not be waived or reduced by any judicial officer.

(d) In the event any owner, lessee or borrower of a vehicle is charged with violating this section, the vehicle charged to have been overloaded shall be impounded by the arresting officer. The vehicle shall not be released to the alleged offender or the owner unless and until he or she either has: (1) Been acquitted of the charge; (2) been found guilty of the charge and paid any fine assessed under subsection (a) or (b) of this section; or (3) furnished cash or surety bond in at least double the amount of the fine which may be assessed the offender under subsection (a) or (b) of this section conditioned upon the payment of any fine and costs assessed for the violation. The offender is liable for any reasonable storage costs incurred in storing impounded vehicles: Provided, That if the owner of the vehicle is a resident of or has a principal place of business located in this state and the vehicle has been duly licensed in the state, then the vehicle may not be impounded by the arresting officer who shall deliver to the operator a written notice of the violation; the place, date and time of violation; the license number of the vehicle; the title number and name and address of the owner; the driver's name, address and the number of his or her commercial driver's license; and the court, place, date and time for hearing, which shall be within ten days of the violation, Saturdays, Sundays and holidays excluded. A copy of the notice shall be mailed to the owner of the vehicle within forty-eight hours. If the owner or his her or its agent fails to appear at the designated place and time or, if convicted, fails to pay the fine and costs assessed for the violation, the court shall order the owner to post a bond or the impounding of the vehicle as provided in this section.

(e) Any shipper or receiver who directs or knowingly permits a commercial motor vehicle to be loaded in excess of registered weight, allowable weights for single axle or allowable weights for groups of two or more consecutive axles is also guilty of a misdemeanor and, upon conviction, shall be punished by a fine equal to that which may be imposed on the owner, lessee or borrower of a commercial motor vehicle under subsection (a) of this section.

(f) The penalties and fees specified in this section are in addition to any other liability that may be legally fixed against the owner, operator or other person charged with a weight violation.

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