WEST VIRGINIA CODE: §19-10B-10

§19-10B-10. Penalties.

(a) Criminal penalties - Any person who shall violate any of the provisions of this article or rule adopted hereunder is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $1,000 for the first offense, and upon conviction of each subsequent offense, shall be fined not less than $500 nor more than $5,000. Magistrates have concurrent jurisdiction with circuit courts to enforce the provisions of this article.

(b) Civil penalties.

(1) Any person violating a provision of this article or rule adopted hereunder may be assessed a civil penalty by the commissioner. In determining the amount of any civil penalty, the commissioner shall give due consideration to the history of previous violations of any person, the seriousness of the violation, and the demonstrated good faith of any person charged in attempting to achieve compliance with this article before and after written notification of the violation.

(2) The commissioner may assess a penalty of not more than $500 for the first offense, and not less than $500 nor more than $5,000 for the second and subsequent offenses.

(3) The civil penalty is payable to the State of West Virginia and is collectible in any manner now or hereafter provided for collection of a debt. Any person liable to pay the civil penalty and neglecting or refusing to pay the same, shall be assessed interest at ten percent from the date the penalty was assessed. Such penalty and interest constitute a lien in favor of the State of West Virginia and shall attach on the person's property when such lien is properly recorded in the county where the property is situated. There shall be no cost as a condition precedent to recording.

(c) Notwithstanding any other provision of law to the contrary, the commissioner may promulgate and adopt rules in accordance with the provisions of chapter twenty-nine-a of this code, which permit consent agreements or negotiated settlements for the civil penalties assessed as a result of violation of the provisions of this article, and which deal with the civil penalties and procedures thereunder.

(d) No state court may allow for the recovery of damages for any administrative action taken if the court finds that there was a probable cause for such action.

WV Legislature