WEST VIRGINIA CODE: §19-12-16

§19-12-16. Criminal penalties; civil penalties; duties of the prosecuting attorney.

(a) Criminal penalties. -- Any person violating any of the provisions of this article, or the rules adopted hereunder, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than $100 nor more than $500 for the first offense; and for the second offense, shall be fined not less than $500 nor more than $1,000, or confined in the county jail not more than six months, or both.

(b) Civil penalties. --

(1) Any person violating a provision of this article or rules 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, including any irreparable harm to the environment, any hazards to the health and safety of the public and any economic damages to the public and the demonstrated good faith of any person charged in attempting to achieve compliance with the article before and after written notification of the violation.

(2) The commissioner may assess a penalty of not more than $500 for each first offense or nonserious violation, and not more than $1,000 for a serious violation, or for a repeat or intentional violation.

(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 debt. If any person liable to pay the civil penalty neglects or refuses to pay the same, the amount of the civil penalty, together with interest at ten percent, is a lien in favor of the State of West Virginia upon the property, both real and personal, of such a person after the same has been entered and docketed to record in the county where such property is situated. The clerk of the county, upon receipt of the certified copy of such, shall enter same to record without requiring the payment of costs as a condition precedent to recording.

(4) The commissioner shall promulgate legislative rules, in accordance with the provisions of chapter twenty-nine-a of this code, to provide for the implementation and assessment of civil penalties pursuant to subsection (b) of this section.

(5) The commissioner shall promulgate legislative rules, in accordance with the provisions of chapter twenty-nine-a of this code, to permit consent agreements or negotiated settlements for the civil penalties which may be assessed pursuant to the provisions of this section.

(c) 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

(d) It shall be the duty of the prosecuting attorney of the county in which the violation occurred to represent the Department of Agriculture, to institute proceedings and to prosecute the person charged with such violation.

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