WEST VIRGINIA CODE: §19-13-11

§19-13-11. Penalties for violations of article; rules.

(a)(1) Criminal penalties. -- Any person violating any provision of this article 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 each subsequent offense, shall be fined not less than $500 nor more than $1,000, or imprisoned in the county or regional jail not more than six months, or both. Magistrates have concurrent jurisdiction with circuit courts to enforce the provisions of this article.

(2) 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.

(b) Civil penalties. --

(1) Any person violating the provisions of this article or rule promulgated pursuant to this article 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 violation of any persons, the seriousness of the violation, including any hazards to agriculture in West Virginia and the demonstrated good faith of any person charged in attempting to achieve compliance with this article after written notification of the violation.

(2) The commissioner may assess a penalty of not more than $100 for the first offense or less serious violation, as determined by the commissioner in accordance with the rules approved in accordance with the provisions of chapter twenty-nine-a of this code, and not more than $1,000 for a serious, repeat or intentional violation, as determined by the commissioner in accordance with the approved rules.

(3) The commissioner may negotiate and enter into a settlement agreement for the payment of civil penalties.

(4) The civil penalty is payable to the State of West Virginia and is collectable in any manner authorized by law for the collection of debts. Any person liable to pay a civil penalty and neglecting or refusing to pay it within thirty days of written notice of demand for payment, shall be assessed interest at the rate of ten percent per year from the date the penalty was assessed to the date of payment. The penalty and interest constitute a lien in favor of the State of West Virginia and shall attach on the person's property when a lien is properly recorded in the county wherein the property is situated. There shall be no cost as a condition precedent to recording.

(5) The commissioner shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to establish procedures for the

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assessment and collection of civil penalties as provided in this section.

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

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