WEST VIRGINIA CODE: §19-16-8

§19-16-8. Penalties and prosecutions.

(a) Criminal penalties. — Any person violating any of the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars nor more than five hundred dollars for the first offense, and for each subsequent offense, shall be fined not less than five hundred nor more than one thousand dollars, or imprisoned in the county jail not more than six months, or both fined and imprisoned. Magistrates have concurrent jurisdiction with circuit courts to enforce the provisions of this article.

(b) Civil penalties. —

(1) Any person violating any of the provisions of this article or the rules adopted under 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 violations of any person; the seriousness of the violation, including any irreparable harm to the environment, 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 five hundred dollars for the first offense or nonserious violation, as determined by the commissioner in accordance with the rules promulgated in accordance with the provisions of article three [§§ 29A-3-1 et seq.], chapter twenty-nine-a of this code, and not more than one thousand dollars for a serious, repeat or intentional violation, as determined by the commissioner in accordance with the promulgated rules.

(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 civil penalty, shall be assessed interest at ten percent per annum from the date the penalty was assessed. The penalty and interest constitute a lien in favor of the State of West Virginia and shall attach on the person's property when the lien is properly recorded in the county where the property is located. There may be no cost as a condition precedent to recording.

(c) Notwithstanding any other provision of law to the contrary, the commissioner may propose for promulgation and adopt rules which permit consent agreements or negotiated settlements for the civil penalties assessed as a result of a violation of the provisions of this article.

(d) Nothing in this article may be construed as to require the commissioner to report minor violations of this article when the commissioner believes that the public interest will be best served by a written notice.

WV Legislature

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

WV Legislature