WEST VIRGINIA CODE: §19-2B-11

§19-2B-11. Criminal penalties; civil penalties.

(a) Criminal penalties.

(1) Any person who violates any of the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined not less than two hundred nor more than $1,000 and upon conviction of each subsequent offense shall be fined not less than $400 nor more than $2,000.

(2) If a person knowingly sells, offers for sale or distribution, or attempts to sell, offers for sale or distribution of a carcass, meat product or poultry product that is contaminated with pathogenic microorganisms or otherwise adulterated, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $5,000 nor more than $10,000 upon conviction of each offense.

(b) Civil penalties.

(1) Any slaughterer, processor or distributor who violates any of the provisions of this article or regulations 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; the seriousness of the violation, including any hazards to the health and safety of the public; and the demonstrated good faith efforts by the charged party to ensure that similar violations do not recur.

(2) The commissioner may assess a penalty of not more than $500 for a first violation and not more than $1,000 for each subsequent violation.

(3) The civil penalty is payable to the State of West Virginia and may be collected in any manner for collection of debt to the state. If a person assessed a civil penalty pursuant to this subsection neglects or refuses to pay, the amount of that penalty, together with interest calculated at ten percent per annum, may be filed as a lien in favor of the state upon any and all property of the person, both real and personal. The lien shall be recorded in the records kept in the office of the county clerk in the county wherein the violation occurred. The county clerk in the recording county shall enter the same to record without requiring payment of recording fees as a condition precedent to the recording. A notice of the lien shall be mailed or delivered to the person against whose property the lien has been placed. All penalties, together with any interest, collected by the state, pursuant to this subsection, shall be deposited in the General Revenue Fund.

(4) Notwithstanding any other provision of the law to the contrary, the commissioner may enter into consent agreements or negotiated settlement agreements for the civil penalties assessed pursuant to this subsection.

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(5) No state court may allow the recovery of damages for administrative action taken by the commissioner if the court finds, as a matter of law, that there was probable cause for such action.

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