WEST VIRGINIA CODE: §47-23-9

§47-23-9. Penalty for failure to file return when no fee due; other offenses; penalties; seizures of illegal boards and games; disposition.

(a) Penalty for failure to file required return where no fee due. -- In the case of any failure to make or file a return when no fee is due, as required by this article, on the date prescribed therefor, unless it be shown that such failure was due to reasonable cause and not due to willful neglect, there shall be collected a penalty of $25 for each month of such failure or fraction thereof.

(b) It shall be a misdemeanor, punishable pursuant to the terms of this article, if any person:

(1) Makes any false entry upon an invoice required to be made under the provisions of this article or with intent to evade the fee imposed by this article presents any such false entry for the inspection of the commissioner;

(2) Prevents or hinders the commissioner from making a full inspection of any place where charitable raffle boards or games subject to the fee imposed by this state are sold or stored or prevents or hinders the full inspection of invoices, books, records or papers required to be kept under the provisions of this article;

(3) Sells any charitable raffle boards or games in this state on which the applicable fee or tax has not been paid;

(4) Being a retailer in this state, fails to produce on demand by the commissioner invoices and verification of all charitable raffle boards and games purchased or received by him within three years prior to such demand, unless upon satisfactory proof it is shown that such nonproduction is due to providential or other causes beyond his control; or

(5) Being a retailer in this state, purchases or acquires charitable raffle boards and games from any person other than a wholesaler or distributor licensed under this article.

(c) Any person convicted of violating the provisions of subsection (b) of this section shall be confined in the county jail or regional jail for not more than one year or fined not less than $1,000 nor more than $10,000, or both.

(d) Any person who falsely or fraudulently makes, forges, alters or counterfeits any invoice or serial number prescribed by the provisions of this article, or its related rules and regulations, for the purpose of evading the fee hereby imposed, shall be guilty of a felony, and, upon conviction thereof, shall be sentenced to pay a fine of not less than $5,000 nor more than $10,000 or imprisoned in the penitentiary for a term of not less than one year nor more than five years, or both.

(e) Whenever the commissioner, or any of his deputies or employees authorized by him or

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any peace officer of this state shall discover any charitable raffle boards or games subject to the fee as provided by this article and upon which the fee has not been paid as herein required, such charitable raffle boards and games shall thereupon be deemed to be contraband, and the commissioner, or such deputy or employee or any peace officer of this state, is hereby authorized and empowered forthwith to seize and take possession of such charitable raffle boards or games, without a warrant, and such charitable raffle boards and games shall be forfeited to the state, and the commissioner shall retain the forfeited charitable raffle boards and games until they are no longer needed as evidence in any prosecution of the person from whom the raffle boards and games were seized. The commissioner may within a reasonable time thereafter destroy such charitable raffle boards and games or sell said charitable raffle boards or games at public auction to the highest bidder: Provided, That such seizure and destruction or public auction shall not be deemed to relieve any person from fine or imprisonment as provided herein for violation of any provisions of this article. Such destruction may be made in any county the commissioner deems most convenient and economical. All revenue from said license fee shall be deposited in the special revenue account established under the authority of section two-a, article nine, chapter eleven of this code and used to support the investigatory activities provided for in said section.

(f) Magistrates shall have concurrent jurisdiction with any other courts having jurisdiction for the trial of all misdemeanors arising under this article.

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