

# WEST VIRGINIA CODE: §47-25-6

## §47-25-6. Penalties.

(a) A manufacturer, wholesale dealer, agent or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of section three of this article, is subject to a civil penalty not to exceed \$100 for each pack of the cigarettes sold or offered for sale: Provided, That in no case shall the penalty against that person or entity exceed \$100,000 during any thirty-day period.

(b) A retail dealer who knowingly sells or offers to sell cigarettes in violation of section three of this article is subject to a civil penalty not to exceed \$100 for each pack of the cigarettes sold or offered for sale: Provided, That in no case shall the penalty against that retail dealer exceed \$25,000 for sales or offers to sell during any thirty-day period.

(c) In addition to any penalty prescribed by law, any manufacturer of cigarettes that knowingly makes a false certification pursuant to section four of this article is subject to a civil penalty of at least \$75,000 and not to exceed \$250,000 for each false certification.

(d) Any person violating any other provision in this article is subject to a civil penalty for a first offense not to exceed \$1,000 and for a subsequent offense, subject to a civil penalty not to exceed \$5,000 for each violation.

(e) In addition to any other remedy provided by law, the state Fire Marshal or the State Tax Commissioner may file an action in circuit court for a violation of this article, including petitioning for injunctive relief against any manufacturer, importer, wholesale dealer, retail dealer, agent or any other person or entity to enjoin that entity from selling, offering to sell, or affixing tax stamps to any cigarette that does not comply with the requirements of this article, or to recover any costs or damages suffered by the state because of a violation of this article, including enforcement costs relating to the specific violation and attorney's fees. Each violation of this article or of rules promulgated under this article constitutes a separate civil violation for which the state Fire Marshal or the State Tax Commissioner may obtain relief. Upon obtaining injunctive relief under this section, the state Fire Marshal or the State Tax Commissioner shall provide a copy of the judgment to all wholesale dealers and agents to which the cigarette has been sold.

(f) Whenever any law-enforcement personnel or duly authorized representative of the State Tax Commissioner discovers any cigarettes for which no certification has been filed as required by section four of this article or that have not been marked in the manner required by section five of this article, they may seize and take possession of the cigarettes. The cigarettes shall be forfeited to the state. The State Tax Commissioner shall destroy any cigarettes seized pursuant to this section: Provided, That prior to the destruction of any cigarette seized pursuant to these provisions, the true holder of the trademark rights in the cigarette brand may inspect the cigarette.