WEST VIRGINIA CODE: §61-3A-5

§61-3A-5. Civil liability.

(a) General rule. -- Any person who commits any of the acts described in section one of this article shall be civilly liable:

(1) To restore the merchandise to the mercantile establishment; and

(2) If such merchandise is not recoverable or is damaged, for actual damages, including the value of the merchandise involved in the shoplifting; and

(3) For other actual damages arising from the incident, not including the loss of time or loss of wages incurred by the mercantile establishment or any merchant in connection with the apprehension and processing of the suspect; and

(4) In all cases, for a penalty to be paid to the mercantile establishment in the amount of $50 or double the value of the merchandise, whichever is higher.

(b) Costs and attorneys' fees. -- A merchant who is a prevailing party under this section is entitled to costs.

(c) Effect of conviction. -- A conviction for the offense of theft by shoplifting is not a prerequisite to the maintenance of a civil action authorized by this section. However, a merchant who has recovered the penalty prescribed by section three of this article is not entitled to recover the penalty imposed by this section.

(d) Right to demand payment. -- The fact that a mercantile establishment may bring an action against an individual as provided in this section does not limit the right of such establishment to demand, orally or in writing, that a person who is liable for damages or a penalty under this section remit said damages or penalty prior to the commencement of any legal action.

WV Legislature