

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

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OFFICE OF WEST VIRGINIA

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Attorney General TITLE NUMBER: 142

RULE TYPE: Legislative; CITE AUTHORITY Code 47-18-20

AMENDMENT TO AN EXISTING RULE: YES ___ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 9

TITLE OF RULE BEING PROPOSED: Proposed legislative rule pertaining to allowing persons who are indirectly injured by violations of the West Virginia Antitrust Act to recover damages.

DATE OF PUBLIC HEARING: August 8, 1989 TIME: 9:00 a.m.

LOCATION OF PUBLIC HEARING: Antitrust Division
812 Quarrier Street, Fifth Floor
Charleston, West Virginia 25301

COMMENTS LIMITED TO: ORAL ___, WRITTEN ___, BOTH X
COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Robert Wm. Schulenberg III
Antitrust Division

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.
The issues to be heard shall be limited to the proposed rule.

812 Quarrier Street, 5th Floor
Charleston, West Virginia
25301

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

FISCAL NOTE FOR PROPOSED RULES

Proposed legislative rule pertaining to allowing
 Rule Title: persons who are indirectly injured by violations of the
West Virginia Antitrust Act to recover damages.

Type of Rule: Legislative Interpretive Procedural

Agency Attorney General Address Antitrust Division
812 Quarrier Street, Fifth Floor, Charleston, West Virginia 25301

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafte
Estimated Total Cost	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Personal Services	0	0	0	0	0
Current Expense	0	0	0	0	0
Repairs and Alterations	0	0	0	0	0
Equipment	0	0	0	0	0
Other	0	0	0	0	0

2. Explanation of above estimates:

No additional personnel, equipment, or facilities will be required to implement the provisions of this rule.

3. Objectives of these rules:

The objective of these rules is to clarify the application of the West Virginia Antitrust Act and allow persons who are indirectly injured by violations of the West Virginia Antitrust Act to recover damages.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

None

C. Economic Impact on Citizens/Public at Large.

None

Date: 7/5/89

Signature of Agency Head or Authorized Representative

Charles G Brown

SUMMARY OF PROPOSED RULE

The purpose of this rule is to allow persons who have been indirectly injured by reason of violations of the West Virginia Antitrust Act to recover damages.

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TITLE 142

LEGISLATIVE RULES
ATTORNEY GENERAL
SERIES 9

OFFICE OF WEST VIRGINIA
LEGISLATIVE COUNSEL

Title: Proposed legislative rule pertaining to allowing persons who are indirectly injured by violations of the West Virginia Antitrust Act to recover damages.

Section 142-9-1. General.

1.1 Rule Designation - This rule is legislative.

1.2 Scope - This rule shall apply to any action brought by any person under the provisions of Chapter 47, Article 18, Section 9 of the West Virginia Code, or any action brought by the Attorney General as parens patriae under the provisions of Chapter 47, Article 18, Section 17 of the Code.

1.3 Authority - Chapter 47, Article 18, Section 20 of the Code.

1.4 Purpose - The purpose of this rule is to allow persons who are indirectly injured by violations of the West Virginia Antitrust Act to maintain an action for damages; to allow the Attorney General, as parens patriae, to maintain an action on behalf of such persons who have suffered indirect injury under Chapter 47, Article 18, Section 17 of the Code; and to bring the application of the West Virginia Antitrust Act into conformity with the laws of other jurisdictions.

1.5 Filing Date -

1.6 Effective Date - This rule shall be effective upon passage of the bill of authorization.

1.7 Repeal of Former Rule - Not Applicable.

1.8 Construction - This rule shall be liberally construed to effectuate the beneficial purposes of the West Virginia Antitrust Act.

Title 142
Attorney General
Proposed Legislative Rule
Series 9, Section 1

1.9 Severability - If, for any reason, any section, sentence, clause, phrase, or provision of this rule or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other sections, sentences, clauses, phrases, or provisions or their application to any other person or circumstance, and to this end, each and every section, sentence, clause, phrase, or provision of this rule is hereby declared to be severable.

Section 142-9-2. Damages Recoverable By Persons Indirectly Injured.

Any person who shall be injured directly or indirectly by reason of a violation of the West Virginia Antitrust Act, Chapter 47, Article 18, Section 1 et seq. of the Code may bring an action for damages under Chapter 47, Article 18, Section 9 of the Code. The State and any of its political subdivisions shall be deemed a person within the meaning of this rule.



STATE OF WEST VIRGINIA
OFFICE OF THE ATTORNEY GENERAL
CHARLESTON 25305

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OFFICE OF WEST VIRGINIA
LEGISLATIVE COUNSEL

CHARLES G. BROWN
ATTORNEY GENERAL

(304) 348-2021

CONSUMER HOT LINE
(800) 368-8808

June 23, 1989

July 5
CB

The Honorable Ken Hechler
Secretary of State
State Capitol
Room 157
Charleston, West Virginia 25305

Re: Promulgation of Proposed Legislative Rule
Pertaining to Allowing Indirect Purchasers to
Recover Damages for injuries Caused by Conduct
Violative of the West Virginia Antitrust Act


Dear Secretary Hechler:

Enclosed please find for filing each of the following documents:

- One (1) copy of the proposed rule;
- One (1) copy of the fiscal note for the proposed rule; and
- One (1) copy of the Notice of Public Hearing for the proposed rule.

Your attention and courtesies in this matter are greatly appreciated. If you or your staff have any questions regarding this matter, please do not hesitate to call Daniel N. Huck, Deputy Attorney General, of my Antitrust Division.

Sincerely,


CHARLES G. BROWN
ATTORNEY GENERAL

CGB/S/rm

Enclosures