

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #4

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1991 JAN 22 PM 4:09
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Attorney General TITLE NUMBER: 142

CITE AUTHORITY W. Va. Code 47-18-20 (1978)

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: 15

TITLE OF RULE BEING PROPOSED: Proposed legislative rule pertaining to defining the term "federal antitrust laws" and prohibiting tying and reciprocity

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Robert Wm. Schulenberg III
Senior Assistant Attorney General
Antitrust Division

TITLE 142

PROPOSED LEGISLATIVE RULE
ATTORNEY GENERAL
SERIES 15

Title: Proposed legislative rule pertaining to defining the term "federal antitrust laws" and prohibiting tying and reciprocity.

§ 142-15-1. General.

1.1 Scope - This rule shall apply to any action brought by the Attorney General as parens patriae in federal court for violations of the federal antitrust laws under W. Va. Code § 47-18-17 (1978) and to any person who engages in trade or commerce in or affecting this State.

1.2 Authority - W. Va. Code § 47-18-20 (1978).

1.3 Filing Date -

1.4 Effective Date -

1.5 Purpose - The purpose of this rule is to define the term "federal antitrust laws" as used within W. Va. Code § 47-18-17 (1978) and to prohibit tying and reciprocity in any trade or commerce in or affecting this State.

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

1.7 Severability - If, for any reason, any section, sentence, clause, phrase, or provision of this rule or the application thereof to any person or circumstances 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 severable.

Attorney General
Proposed Legislative Rule
§ 142-15-2

§ 142-15-2. Definition of "Federal Antitrust Laws"
As Used in W. Va. Code § 47-18-17 (1978).

The term "federal antitrust laws" as used within W. Va. Code § 47-18-17 (1978) shall include the provisions of 15 U.S.C. §§ 1, 2, 3, 8, 13, 14, 18, 19, and 45(a).

§ 142-15-3. Prohibited Conduct.

3.1 It shall be unlawful under W. Va. Code §§ 47-18-3, -4 (1978) for any person or group of persons to enter into tie-in agreements. Such agreements include, but are not limited to, agreements which condition or have the effect of conditioning the sale of one product or service upon the purchase of another product or service.

3.2 It shall be unlawful under W. Va. Code §§ 47-18-3, 4 (1978) for any person or persons to enter into agreements resulting in reciprocity. Such agreements include, but are not limited to, agreements in which the sale of a product or service is conditioned upon the seller's purchase of products or services produced or performed by the buyer.



WEST VIRGINIA LEGISLATURE
 LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
 Room M-438, State Capitol
 Charleston, West Virginia 25305
 (304) 340-3286

Senator Lloyd Jackson, Co-Chairman
 Delegate Patrick H. Murphy, Co-Chairman

Debra A. Graham, Counsel
 Michael McThomas, Associate Counsel
 Marie Nickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

January 9, 1991

TO: Ken Hechler, Secretary of State, State Register
 TO: The Honorable Mario Palumbo
 Attorney General
 State Capitol
 Charleston, WV 25305
 FROM: Legislative Rule-Making Review Committee

FILED
 1991 JAN 23 PM 3:22
 OFFICE OF WEST VIRGINIA
 SECRETARY OF STATE

PROPOSED RULE: Proposed legislative rule pertaining to defining the term "federal antitrust laws" and prohibiting tying and reciprocity

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed
 - (b) as modified by the agency X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: Robert Wm. Schulenberg III, Sr. Asst. AG
 Donna S. Quesemberly, Asst. AG