

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

FILED
1991 APR -9 PM 1:31
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: Attorney General TITLE NUMBER: 142

AMENDMENT TO AN EXISTING RULE: YES , NO

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 RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) Senate Bill 637

SECTION 64-9-3 (1), PASSED ON March 9, 1991

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: April 9, 1991



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 - April 9, 1991.

1.4 Effective Date - April 9, 1991.

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.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

CATHERINE FREROTTE
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Director, Corporations

SHEREE COHEN
Special Assistant

(plus all the volunteer
help we can get)

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

1992 JAN 28 AM 9:07

FILED

TO: Landon Brown

AGENCY: Attorney General's Office

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: January 13, 1992

THE ATTACHED RULE RECENTLY FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 15 TITLE: Defining the Term "Federal Antitrust Laws" and Prohibiting Tying and Reciprocity

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Donna S. Luebenberg

TITLE OF PERSON SIGNING: Asst. Assistant Attorney General

DATE: 1/23/92