

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #1

FILED IN THE OFFICE OF THE SECRETARY OF STATE THIS DATE July 6, 1990 ADMINISTRATIVE LAW DIVISION

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: 18

TITLE OF RULE BEING PROPOSED: Exemption of certain Anti-Competitive Activity

DATE OF PUBLIC HEARING: August 7, 1990 TIME: 8:30 am

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

COMMENTS LIMITED TO: ORAL, WRITTEN, BOTH X

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Constance R. Tsokanis 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.

812 Quarrier Street -5th Fl. Charleston, West Virginia 25301

The issues to be heard shall be limited to the proposed rule.

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

Handwritten signature

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Exemption of Certain Anti-Competitive Activity

Type of Rule: X Legislative Interpretive Procedural

Agency Attorney General Address 812 Quarrier Street
 L & S Building - 5th Floor
 Charleston, West Virginia
 25301

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
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 and application of the West Virginia Antitrust Act.

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: _____

7/6/90

Signature of Agency Head or Authorized Representative

Daniel M. Hoch

TITLE 142

LEGISLATIVE RULE
ATTORNEY GENERAL

SERIES 18
EXEMPTION OF CERTAIN ANTI-COMPETITIVE ACTIVITY

§ 142-18-1. General.

1.1 Scope - This rule shall apply to any action brought by the Attorney General in state or federal court under W. Va. Code § 47-18-1 through 47-18-23 (1986).

1.2 Authority - This rule is authorized by W. Va. Code § 47-18-20.

1.3 Filing Date -

1.4 Effective Date -

1.5 Purpose - The purpose of this rule is to define the extent of State regulation necessary to establish an exemption as contemplated in W. Va. Code § 47-18-5(b) from actions brought pursuant to Chapter 47, Article 18.

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
Legislative Rule
§ 142-18-2

§ 142-18-2. Extent of state regulation necessary to create
an exemption from enforcement pursuant to
Chapter 47, Article 18.

For the purpose of creating an exemption from an enforcement action brought pursuant to Article 18 of Chapter 47 of the West Virginia Code, based on an argument that the activities or operations of a person subject to said enforcement action are regulated pursuant to the laws of West Virginia or of the United States, said regulation and regulatory scheme shall meet the following requirements:

a. the regulation clearly articulates a legislative policy of displacing competition in a particular market, and

b. government officials actively supervise the implementation and ongoing enforcement of said regulation in said market.



STATE OF WEST VIRGINIA
OFFICE OF THE ATTORNEY GENERAL
CHARLESTON 25305

ROGER W. TOMPKINS
ATTORNEY GENERAL

(304) 348-2021

CONSUMER HOTLINE
(800) 368-8808

July 6, 1990

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

Re: Promulgation of Proposed Legislative Rule
on Exemption of Certain Anti-Competitive
Activity.

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, Antitrust Division at 348-0246.

Sincerely,


ROGER W. TOMPKINS
ATTORNEY GENERAL

RWT/jar

Enclosures