

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: 18

TITLE OF RULE BEING PROPOSED: Proposed legislative rule pertaining to
the regulated business exemption and the West Virginia Antitrust Act.

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 (k), 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

Robert J. Gault

TITLE 142

PROPOSED LEGISLATIVE RULE
ATTORNEY GENERAL
SERIES 18

Title: Proposed legislative rule pertaining to the regulated business exemption under the West Virginia Antitrust Act.

§ 142-18-1. General.

1.1 Scope - This rule shall apply to any action brought by the Attorney General under W. Va. Code §§ 47-18-1, -23 (1978).

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 implement, apply, interpret, and make specific the exemption contained in W. Va. Code § 47-18-5 (1978) relating to regulated businesses.

1.6 Construction - This rule shall be interpreted in conformity with the federal decisional law relating to exemptions under the federal antitrust laws.

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.

§ 142-18-2. Exemption from the West Virginia Antitrust Act for Regulated Businesses.

Conduct of a regulated business shall be exempt from the application of the West Virginia Antitrust Act upon a showing of both the following:

Attorney General
Proposed Legislative Rule
§ 142-18-2.

2.1 There must be a clearly articulated and affirmatively expressed legislative policy to displace competition; and

2.2 The state agencies charged with regulating the business must actively supervise the regulated business with respect to the conduct in question.

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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SECRETARY OF STATE

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Director, Corporations

SHEREE COHEN
Special Assistant

1992 JAN 28 AM 9:07
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE
FILED
(Plus all the volunteer help we can get)

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: 18 TITLE: Regulated Business Exemption Under the West Virginia Antitrust Act

* 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 L. Lisenberry

TITLE OF PERSON SIGNING: As. Assistant Attorney General

DATE: 1/23/92