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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1992

—●—
ENROLLED
Committee Substitute for
SENATE BILL NO. 458

(By Senator *Kernendo*)

—●—
PASSED *March 2,* 1992
In Effect *90 days from* Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 458
(By SENATOR CHERNENKO)

[Passed March 2, 1992; in effect ninety days from passage.]

AN ACT to amend article three, chapter twenty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section nineteen, relating to prohibiting discrimination against employees and prospective employees for the use of tobacco products off the premises during nonworking hours.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-one, article three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section nineteen, to read as follows:

ARTICLE 3. SAFETY AND WELFARE OF EMPLOYEES.

§21-3-19. Discrimination for use of tobacco products prohibited.

- 1 (a) It shall be unlawful for any employer, whether
- 2 public or private, or the agent of such employer to
- 3 refuse to hire any individual or to discharge any
- 4 employee or otherwise to disadvantage or penalize any

5 employee with respect to compensation, terms, condi-
6 tions or privileges of employment solely because such
7 individual uses tobacco products off the premises of
8 the employer during nonworking hours.

9 (b) This section shall not apply with respect to an
10 employer which is a nonprofit organization which, as
11 one of its primary purposes or objectives, discourages
12 the use of one or more tobacco products by the general
13 public.

14 (c) This section shall not prohibit an employer from
15 offering, imposing or having in effect a health, disabil-
16 ity or life insurance policy which makes distinctions
17 between employees for type of coverage or price of
18 coverage based upon the employee's use of tobacco
19 products: *Provided*, That any differential premium
20 rates charged to employees must reflect differential
21 costs to the employer: *Provided, however*, That the
22 employer must provide employees with a statement
23 delineating the differential rates used by its insurance
24 carriers.

25 (d) Nothing in this section shall be construed to
26 prohibit an employer from making available to smok-
27 ers and other users of tobacco products, programs, free
28 of charge or at reduced rates, which encourage the
29 reduction or cessation of smoking or tobacco use.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Somer Deck
.....

Chairman Senate Committee

Ernest C. Moore
.....

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell E. Adams
.....

Clerk of the Senate

Donald G. Kopp
.....

Clerk of the House of Delegates

Bill Bredette
.....

President of the Senate

Bob Stoeck
.....

Speaker House of Delegates

The within *is approved* this the *12th*
day of *March*, 1992.

Yastin Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/6/92

Time 9:45 am