

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1965

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ENROLLED

SENATE BILL NO. 136

(By Mr. Taylor, of Kanawha)

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PASSED March 9, 1965

In Effect Ninety days from Passage



FILED IN THE OFFICE OF  
JOE F. BURDETT  
SECRETARY OF STATE  
THIS DATE 3-18-65

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(By MR. TAYLOR, OF KANAWHA)

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[Passed March 9, 1965; in effect ninety days from passage.]

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AN ACT to amend article five, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty, relating to insider trading.

*Be it enacted by the Legislature of West Virginia:*

That article five, chapter thirty-three of the code of West Virginia, as amended, be amended by adding thereto a new section, designated section thirty, to read as follows:

**Article 5. Organization and Procedures of Domestic Stock and Mutual Insurers.**

**Section 30. Insider Trading.**—(a) Every person who is  
2 directly or indirectly the beneficial owner of more than  
3 ten per cent of any class of any equity security of a do-

4 mestic stock insurance company, or who is a director or  
5 an officer of such company, shall file in the office of the  
6 commissioner on or before the thirty-first day of January,  
7 one thousand nine hundred sixty-six, or within ten days  
8 after he becomes such beneficial owner, director or officer  
9 a statement, in such form as the commissioner may pre-  
10 scribe, of the amount of all equity securities of such com-  
11 pany of which he is the beneficial owner, and within ten  
12 days after the close of each calendar month thereafter, if  
13 there has been a change in such ownership during such  
14 month, shall file in the office of the commissioner a state-  
15 ment, in such form as the commissioner may prescribe,  
16 indicating his ownership at the close of the calendar  
17 month and such changes in his ownership as have oc-  
18 curred during such calendar month.

19 (b) For the purpose of preventing the unfair use of  
20 information which may have been obtained by such bene-  
21 ficial owner, director or officer by reason of his relation-  
22 ship to such company, any profit realized by him from any  
23 purchase and sale, or any sale and purchase, of any equity  
24 security of such company within any period of less than

25 six months, unless such security was acquired in good  
26 faith in connection with a debt previously contracted,  
27 shall inure to and be recoverable by the company, irre-  
28 spective of any intention on the part of such beneficial  
29 owner, director or officer in entering into such transaction  
30 of holding the security purchased or of not repurchasing  
31 the security sold for a period exceeding six months. An  
32 action to recover such profit may be instituted in any  
33 court of competent jurisdiction by the company, or by the  
34 owner of any security of the company in the name and in  
35 behalf of the company if the company shall fail or refuse  
36 to bring such action within sixty days after request or  
37 shall fail diligently to prosecute the same thereafter; but  
38 no such action shall be brought more than two years after  
39 the date such profit was realized. This section shall not  
40 be construed to cover any transaction where such bene-  
41 ficial owner was not such both at the time of the purchase  
42 and sale, or the sale and purchase, of the security in-  
43 volved, or any transaction or transactions which the com-  
44 missioner by rules and regulations may exempt as not  
45 comprehended within the purpose of this section.

46 (c) It shall be unlawful for any such beneficial owner,  
47 director or officer, directly or indirectly, to sell any equity  
48 security of such company if the person selling the security  
49 or his principal (i) does not own the security sold, or  
50 (ii) if owning the security, does not deliver it against such  
51 sale within twenty days thereafter, or does not within  
52 five days after such sale deposit it in the mails or other  
53 usual channels of transportation; but no person shall be  
54 deemed to have violated this section if he proves that  
55 notwithstanding the exercise of good faith he was unable  
56 to make such delivery or deposit within such time, or that  
57 to do so would cause undue inconvenience or expense.

58 (d) The provisions of paragraph (b) of this act shall  
59 not apply to any purchase and sale, or sale and purchase,  
60 and the provisions of paragraph (c) of this act shall not  
61 apply to any sale of an equity security of a domestic stock  
62 insurance company not then or theretofore held by him  
63 in an investment account, by a dealer in the ordinary  
64 course of his business and incident to the establishment  
65 or maintenance by him of a primary or secondary market  
66 (otherwise than on an exchange as defined in the securi-

67 ties exchange act of one thousand nine hundred thirty-  
68 four) for such security. The commissioner may, by such  
69 rules and regulations as he deems necessary or appropri-  
70 ate in the public interest, define and prescribe terms and  
71 conditions with respect to securities held in an investment  
72 account and transactions made in the ordinary course of  
73 business and incident to the establishment or maintenance  
74 of a primary or secondary market.

75 (e) The provisions of paragraphs (a), (b) and (c) of  
76 this act shall not apply to foreign or domestic arbitrage  
77 transactions unless made in contravention of such rules  
78 and regulations as the commissioner may adopt in order  
79 to carry out the purposes of this act.

80 (f) The term "equity security" when used in this act  
81 means any stock or similar security; or any security con-  
82 vertible, with or without consideration, into such a se-  
83 curity, or carrying any warrant or right to subscribe to or  
84 purchase such a security; or any such warrant or right;  
85 or any other security which the commissioner shall deem  
86 to be of similar nature and consider necessary or appro-  
87 priate, by such rules and regulations as he may prescribe

88 in the public interest or for the protection of investors,  
89 to treat as an equity security.

90 (g) The provisions of paragraphs (a), (b) and (c) of  
91 this act shall not apply to equity securities of a domestic  
92 stock insurance company if (i) such securities shall be  
93 registered, or shall be required to be registered, pursuant  
94 to section twelve of the securities exchange act of one  
95 thousand nine hundred thirty-four, as amended, or if  
96 (ii) such domestic stock insurance company shall not  
97 have any class of its equity securities held of record by  
98 one hundred or more persons on the last business day of  
99 the year next preceding the year in which equity securi-  
100 ties of the company would be subject to the provisions of  
101 paragraphs (a), (b) and (c) of this act except for the  
102 provisions of this subsection (ii).

103 (h) The commissioner shall have the power to make  
104 such rules and regulations as may be necessary for the  
105 execution of the functions vested in him by paragraphs  
106 (a) through (g) of this act, and may for such purpose  
107 classify domestic stock insurance companies, securities,  
108 and other persons or matters within his jurisdiction. No

109 provision of paragraphs (a), (b) and (c) of this act im-  
110 posing any liability shall apply to any act done or omitted  
111 in good faith in conformity with any rule or regulation of  
112 the commissioner, notwithstanding that such rule or regu-  
113 lation may, after such act or omission, be amended or  
114 rescinded or determined by judicial or other authority to  
115 be invalid for any reason.

116 (i) This act shall take effect January first, one thou-  
117 sand nine hundred sixty-six.

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

*Roy Parker*  
Chairman Senate Committee

*James W. Loop*  
Chairman House Committee

Originated in the Senate.

Takes effect *ninety days from* Passage.

*Donald Meyer*  
Clerk of the Senate

*C. Blankenship*  
Clerk of the House of Delegates

*Howard E. Carson*  
President of the Senate

*H. Laban White*  
Speaker House of Delegates

The within *approved* this the *18*  
day of *March*, 1965.

*Sweet C. Smith*  
Governor



Presented to Governor's Office  
Mar. 12, 1965  
11:05 a.m.