

WEST VIRGINIA LEGISLATURE

SECOND EXTRAORDINARY SESSION, 1970



ENROLLED

HOUSE BILL No. 7

(By Mr. *Speaker, Mr. Beasly*
and Mr. Seibert)



PASSED August 21, 1970

In Effect from Passage



FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE

THIS DATE 8-28-70

7

ENROLLED

House Bill No. 7

(By MR. SPEAKER, MR. BOIARSKY, and MR. SEIBERT)

[Passed August 21, 1970; in effect from passage.]

AN ACT to repeal sections thirty-two, thirty-five, thirty-six, thirty-seven and thirty-eight, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend said article by adding thereto six new sections, designated sections thirty-two, thirty-five, thirty-six, thirty-seven, thirty-eight and forty-seven, relating to the purchasing division of the department of finance and administration; relating to the furnishing of paper stock to contractor for state printing and prohibiting the furnishing of paper stock unless all bidders are notified in advance of the prices at which the state will supply such stock and prohibiting the furnishing of paper stock for other than state work under contract;

prohibiting the commissioner of such department and the employees of such department from having any financial interest or any beneficial personal interest in the purchase of any commodities or printing or in any vendor furnishing them; prohibiting the commissioner of such department and the employees of such department from accepting or receiving any money or other thing of value, or any promise, obligation or contract for future reward, or compensation; expressly making bribery statute applicable; prohibiting the obtaining from the state under any contract made under the article by false pretense, token or representation, or by delivery of inferior commodities, with intent to defraud, any money, goods or other property; prohibiting corrupt combinations, collusions or conspiracies in connection with the purchasing or supplying of commodities or printing; making various violations unlawful; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That sections thirty-two, thirty-five, thirty-six, thirty-seven and thirty-eight, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as

amended, be repealed, and that said article be amended by adding thereto six new sections, designated sections thirty-two, thirty-five, thirty-six, thirty-seven, thirty-eight and forty-seven, to read as follows:

ARTICLE 3. PURCHASING DIVISION.

§5A-3-32. Furnishing paper stock to contractor for state printing.

1 Paper stock, if furnished by the state to the contractor,
2 shall be billed at the current market price for the grade
3 furnished in the quantity furnished. It shall be unlawful
4 and discriminatory for the director to furnish the con-
5 tractor with paper for any state work, unless all bidders
6 are notified in advance of placing their bids of the prices
7 at which the state will supply such stock. It shall also
8 be unlawful for the director to furnish to the contractor
9 any paper for other than the state work under contract.

§5A-3-35. Financial interest of commissioner, etc.; receiving reward from interested party; penalty; application of bribery statute.

1 Neither the commissioner, nor any employee of the de-
2 partment of finance and administration, shall be finan-
3 cially interested, or have any beneficial personal interest,
4 directly or indirectly, in the purchase of any commodities

5 or printing, nor in any firm, partnership, corporation or
6 association furnishing them. Neither the commissioner
7 nor any employee of said department shall accept or
8 receive directly or indirectly from any person, firm or
9 corporation, known by such commissioner or employee
10 to be interested in any bid, contract or purchase, by
11 rebate, gift or otherwise, any money or other thing of
12 value whatsoever, or any promise, obligation or contract
13 for future reward, or compensation.

14 A person who violates this section shall be guilty of a
15 misdemeanor, and, upon conviction thereof, shall be con-
16 fined in jail not less than three months nor more than
17 one year, or fined not less than fifty nor more than one
18 thousand dollars, or both, in the discretion of the court:
19 *Provided*, That any person who violates any of the pro-
20 visions of the last sentence of the first paragraph of this
21 section under circumstances constituting the crime of
22 bribery under the provisions of section three, article
23 five-a, chapter sixty-one of this code, shall, upon con-
24 viction of bribery, be punished as provided in said article
25 five-a.

§5A-3-36. Penalty for violation of article.

1 Any person who violates a provision of this article,
2 except where another penalty is prescribed, shall be
3 guilty of a misdemeanor, and, upon conviction thereof,
4 shall be confined in jail not less than ten days nor more
5 than one year, or fined not less than ten nor more than
6 five hundred dollars, or both, in the discretion of the
7 court.

**§5A-3-37. Obtaining money and property under false pretenses
or by fraud from state; penalties.**

1 It shall be unlawful for any person to obtain from the
2 state under any contract made under the provisions of
3 this article, by false pretense, token or representation,
4 or by delivery of inferior commodities, with intent to
5 defraud, any money, goods or other property, and upon
6 violation thereof, such person shall be guilty of a felony,
7 and, upon conviction thereof, shall be confined in the
8 penitentiary not less than one year nor more than five
9 years, and be fined not exceeding one thousand dollars.

**§5A-3-38. Corrupt combinations, collusions or conspiracies
prohibited; penalties.**

1 It shall be unlawful for any person to corruptly com-
2 bine, collude or conspire with one or more other persons

3 with respect to the purchasing or supplying of commodi-
4 ties or printing to the state under the provisions of this
5 article if the purpose or effect of such combination, col-
6 lusion or conspiracy is either to (1) lessen competition
7 among prospective vendors, or (2) cause the state to
8 pay a higher price for such commodities or printing than
9 would be or would have been paid in the absence of such
10 combination, collusion or conspiracy, or (3) cause one
11 prospective vendor or vendor to be preferred over one or
12 more other prospective vendors or vendors. Any person
13 who violates any provision of this section shall be guilty
14 of a felony, and, upon conviction thereof, shall be con-
15 fined in the penitentiary not less than one nor more than
16 five years, and be fined not exceeding five thousand
17 dollars.

§5A-3-47. Severability.

1 If any provision of this article or the application thereof
2 to any person or circumstance is held invalid, such in-
3 validity shall not affect other provisions or applications
4 of the article, and to this end the provisions of this article
5 are declared to be severable.

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

William Tompkins
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the House.

Takes effect from passage.

Howard Myers
Clerk of the Senate

Ch. Blankenship
Clerk of the House of Delegates

Leahy Jackson
President of the Senate

Shirley F. Borsky
Speaker House of Delegates

The within approved this the 27th
day of August, 1970.

Arch A. Shreve Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 8/26/70

Time 4:00 p.m.

RECEIVED

AUG 28 1 42 PM '70

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA