WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1992

ENROLLED
Committee Substitute for
SENATE BILL NO. 458

(By Senator [Signature])

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 prohib­
iting 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
employee with respect to compensation, terms, conditions or privileges of employment solely because such individual uses tobacco products off the premises of the employer during nonworking hours.

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

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

(d) Nothing in this section shall be construed to prohibit an employer from making available to smokers and other users of tobacco products, programs, free of charge or at reduced rates, which encourage the reduction or cessation of smoking or tobacco use.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Homerleck
Chairman Senate Committee

Ernest E. Winters
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

David E. Stedman
Clerk of the Senate

Donald A. Kopp
Clerk of the House of Delegates

Walter Babitz
President of the Senate

Jim Walsh
Speaker House of Delegates

The within ............. this the .............
day of ........................., 1992.

Governor