

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987



ENROLLED

Com. Sub. For

HOUSE BILL No. 2238

(By Delegate *MURPHY*.....)



Passed *MARCH 14,*..... 1987

In Effect *Ninety Days FROM* Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2238
(By DELEGATE MURPHY)

[Passed March 14, 1987; in effect ninety days from passage.]

AN ACT to amend and reenact section one hundred eight, article six, chapter forty-six-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to breach of warranty and the abolishment of the requirement of privity generally; requiring a manufacturer to honor a warranty where the merchant has failed to comply with or register a warranty; and providing for a cause of action against a manufacturer when a merchant or repairperson has replaced or repaired goods under warranty.

Be it enacted by the Legislature of West Virginia:

That section one hundred eight, article six, chapter forty-six-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 6. GENERAL CONSUMER PROTECTION.

§46A-6-108. Breach of warranty; privity abolished.

- 1 (a) Notwithstanding any other provision of law to the
- 2 contrary, no action by a consumer for breach of
- 3 warranty or for negligence with respect to goods subject
- 4 to a consumer transaction shall fail because of a lack of

5 privity between the consumer and the party against
6 whom the claim is made. An action against any person
7 for breach of warranty or for negligence with respect
8 to goods subject to a consumer transaction shall not of
9 itself constitute a bar to the bringing of an action
10 against another person.

11 (b) Notwithstanding any other provision of law to the
12 contrary with respect to goods which are the subject of
13 or intended to become the subject of a consumer
14 transaction, no manufacturer may fail to honor a
15 manufacturer's warranty if the consumer has complied
16 with applicable warranty registration provisions but the
17 merchant from whom such goods were purchased has
18 not complied with or registered the warranty, and in
19 such case the manufacturer shall honor the warranty.

20 (c) When a merchant or manufacturer has failed to
21 honor a warranty which is valid under the laws of this
22 state and which the manufacturer is bound to honor, if
23 the goods have been replaced or repaired by the
24 merchant or a repairperson, as the case may be, such
25 merchant, repairperson or consumer, in addition to any
26 other remedy provided by law, shall have a cause of
27 action against the manufacturer for the reasonable cost
28 of such replacement or repair.

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

Bruce O. Williams
Chairman Senate Committee

Lyle Settee
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Jodd C. Veltus
Clerk of the Senate

Donald J. Kopp
Clerk of the House of Delegates

Sam Tomblin
President of the Senate

Robert C. Clatter
Speaker of the House of Delegates

The within *approved* this the *1st*
day of *April*, 1987.

Robert. Phares Jr.
Governor

PRESENTED TO THE

GOVERNOR

Date 3/26/87

Time 2:31 p.m.

RECEIVED

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OFFICE OF THE
SECRETARY OF THE ARMY