WEST VIRGINIA CODE: §46a-6-102

§46A-6-102. Definitions.

When used in this article, the following words, terms and phrases, and any variations thereof required by the context, shall have the meaning ascribed to them in this article except where the context indicates a different meaning:

(1) "Advertisement" means the publication, dissemination or circulation of any matter, oral or written, including labeling, which tends to induce, directly or indirectly, any person to enter into any obligation, sign any contract or acquire any title or interest in any goods or services and includes every word device to disguise any form of business solicitation by using such terms as "renewal", "invoice", "bill", "statement" or "reminder" to create an impression of existing obligation when there is none or other language to mislead any person in relation to any sought-after commercial transaction.

(2) "Consumer" means a natural person to whom a sale or lease is made in a consumer transaction and a "consumer transaction" means a sale or lease to a natural person or persons for a personal, family, household or agricultural purpose.

(3) "Cure offer" means a written offer of one or more things of value, including, but not limited to, the payment of money, that is made by a merchant or seller and that is delivered by certified mail to a person claiming to have suffered a loss as a result of a transaction or to the attorney for such person.

(4) "Merchantable" means, in addition to the qualities prescribed in section three hundred fourteen, article two, chapter forty-six of this code, that the goods conform in all material respects to applicable state and federal statutes and regulations establishing standards of quality and safety of goods and, in the case of goods with mechanical, electrical or thermal components, that the goods are in good working order and will operate properly in normal usage for a reasonable period of time.

(5) "Sale" includes any sale, offer for sale or attempt to sell any goods for cash or credit or any services or offer for services for cash or credit.

(6) "Trade" or "commerce" means the advertising, offering for sale, sale or distribution of any goods or services and shall include any trade or commerce, directly or indirectly, affecting the people of this state.

(7) "Unfair methods of competition and unfair or deceptive acts or practices" means and includes, but is not limited to, any one or more of the following:

(A) Passing off goods or services as those of another;

(B) Causing likelihood of confusion or of misunderstanding as to the source, sponsorship,

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approval or certification of goods or services;

(C) Causing likelihood of confusion or of misunderstanding as to affiliation, connection or association with or certification by another;

(D) Using deceptive representations or designations of geographic origin in connection with goods or services;

(E) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation or connection that he does not have;

(F) Representing that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used or secondhand;

(G) Representing that goods or services are of a particular standard, quality or grade, or that goods are of a particular style or model if they are of another;

(H) Disparaging the goods, services or business of another by false or misleading representation of fact;

(I) Advertising goods or services with intent not to sell them as advertised;

(J) Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;

(K) Making false or misleading statements of fact concerning the reasons for, existence of or amounts of price reductions;

(L) Engaging in any other conduct which similarly creates a likelihood of confusion or of misunderstanding;

(M) The act, use or employment by any person of any deception, fraud, false pretense, false promise or misrepresentation, or the concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any goods or services, whether or not any person has in fact been misled, deceived or damaged thereby;

(N) Advertising, printing, displaying, publishing, distributing or broadcasting, or causing to be advertised, printed, displayed, published, distributed or broadcast in any manner, any statement or representation with regard to the sale of goods or the extension of consumer credit including the rates, terms or conditions for the sale of such goods or the extension of such credit, which is false, misleading or deceptive or which omits to state material information which is necessary to make the statements therein not false, misleading or deceptive;

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(O) Representing that any person has won a prize, one of a group of prizes or any other thing of value if receipt of the prize or thing of value is contingent upon any payment of a service charge, mailing charge, handling charge or any other similar charge by the person or upon mandatory attendance by the person at a promotion or sales presentation at the seller's place of business or any other location: Provided, That a person may be offered one item or the choice of several items conditioned on the person listening to a sales promotion or entering a consumer transaction if the true retail value and an accurate description of the item or items are clearly and conspicuously disclosed along with the person's obligations upon accepting the item or items; such description and disclosure shall be typewritten or printed in at least eight point regular type, in upper or lower case, where appropriate; or

(P) Violating any provision or requirement of article six-b of this chapter.

(8) "Warranty" means express and implied warranties described and defined in sections three hundred thirteen, three hundred fourteen and three hundred fifteen, article two, chapter forty-six of this code and expressions or actions of a merchant which assure the consumer that the goods have described qualities or will perform in a described manner.

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