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OFFICE OF
THE CLERK OF THE HOUSE OF DELEGATES
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1975

— ● —

ENROLLED

HOUSE BILL No. 1421

Originating
(By Mr. *in the House Committee on the*)
Judiciary

— ● —

PASSED *March 8,* _____ 1975

In Effect *from* _____ Passage



ENROLLED

H. B. 1421

(Originating in the House Committee on the Judiciary)

[Passed March 8, 1975; in effect from passage.]

AN ACT to amend and reenact section one hundred two, article six, chapter forty-six-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the West Virginia consumer credit and protection act; relating to the definitions of terms as used in said article six; and defining two new terms, as used in said article six, namely, the terms "consumer" and "consumer transaction."

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6. GENERAL CONSUMER PROTECTION.

§46A-6-102. Definitions.

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

5 (a) "Advertisement" means the publication, dissemination
6 or circulation of any matter, oral or written, including label-
7 ing, which tends to induce, directly or indirectly, any person
8 to enter into any obligation, sign any contract, or acquire any
9 title or interest in any goods or services and includes every word
10 device to disguise any form of business solicitation by using

11 such terms as “renewal,” “invoice,” “bill,” “statement” or “re-
12 minder,” to create an impression of existing obligation when
13 there is none, or other language to mislead any person in rela-
14 tion to any sought-after commercial transaction.

15 (b) “Consumer” means a natural person to whom a sale is
16 made in a consumer transaction, and a “consumer transaction”
17 means a sale to a natural person or persons for a personal,
18 family, household or agricultural purpose.

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

28 (d) “Sale” includes any sale, offer for sale or attempt to
29 sell any goods for cash or credit or any services or offer for
30 services for cash or credit.

31 (e) “Trade” or “commerce” means the advertising, offer-
32 ing for sale, sale or distribution of any goods or services and
33 shall include any trade or commerce, directly or indirectly,
34 affecting the people of this state.

35 (f) “Unfair methods of competition and unfair or decep-
36 tive acts or practices” means and includes, but is not limited
37 to, any one or more of the following:

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

39 (2) Causing likelihood of confusion or of misunderstand-
40 ing as to the source, sponsorship, approval or certification of
41 goods or services;

42 (3) Causing likelihood of confusion or of misunderstand-
43 ing as to affiliation, connection or association with, or certifi-
44 cation by, another;

45 (4) Using deceptive representations or designations of geo-
46 graphic origin in connection with goods or services;

47 (5) Representing that goods or services have sponsorship,
48 approval, characteristics, ingredients, uses, benefits or quan-
49 tities that they do not have, or that a person has a sponsorship,
50 approval, status, affiliation or connection that he does not
51 have;

52 (6) Representing that goods are original or new if they
53 are deteriorated, altered, reconditioned, reclaimed, used or
54 secondhand;

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

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

60 (9) Advertising goods or services with intent not to sell
61 them as advertised;

62 (10) Advertising goods or services with intent not to supply
63 reasonably expectable public demand, unless the advertise-
64 ment discloses a limitation of quantity;

65 (11) Making false or misleading statements of fact con-
66 cerning the reasons for, existence of or amounts of price
67 reductions;

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

70 (13) The act, use or employment by any person of any
71 deception, fraud, false pretense, false promise or misrepresenta-
72 tion, or the concealment, suppression or omission of any
73 material fact with intent that others rely upon such conceal-
74 ment, suppression or omission, in connection with the sale
75 or advertisement of any goods or services, whether or not any
76 person has in fact been misled, deceived or damaged thereby;
77 or

78 (14) Advertising, printing, displaying, publishing, distri-
79 buting or broadcasting, or causing to be advertised, printed,
80 displayed, published, distributed or broadcast in any manner,
81 any statement or representation with regard to the sale of
82 goods or the extension of consumer credit including the rates,

83 terms or conditions for the sale of such goods or the ex-
84 tension of such credit, which is false, misleading, or deceptive,
85 or which omits to state material information which is neces-
86 sary to make the statements therein not false, misleading
87 or deceptive.

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

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

James L. Davis
Chairman Senate Committee

Clarence Christensen
Chairman House Committee

Originated in the House.

Takes effect from passage.

J. McIlroy, Jr.
Clerk of the Senate

W. A. Stankership
Clerk of the House of Delegates
W. B. B. [Signature]
President of the Senate

Lewis F. McManus
Speaker House of Delegates

The within approved this the 25th
day of March, 1975.

Anna. [Signature]
Governor

PRESENTED TO THE
GOVERNOR

Date 3/20/15

Time 4:30 p.m.