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

C 641
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 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:

5 (a) “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 "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 misunderstanding

40 as to the source, sponsorship, approval or certification of

41 goods or services;

42 (3) Causing likelihood of confusion or of misunderstanding

43 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;
(5) 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;

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

(7) 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;

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

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

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

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

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

(13) 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; or

(14) 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.

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

James L. Shenk
Chairman Senate Committee

Chairman House Committee

Originated in the House.

Takes effect from passage.

J. Wilcoxon, Jr.
Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Lewis F. M. Manns
Speaker House of Delegates

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

Ann. P. Barnes
Governor
PRESENTED TO THE
GOVERNOR

Date  3/20/15
Time  4:30 p.m.