WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

ENROLLED

SENATE BILL NO. 717

(By Mr. [Signature])

PASSED March 11, 1983
In Effect [Signature]

Date 3-29-83

OFFICE OF THE GOVERNOR
ENROLLED

Senate Bill No. 717

(BY MR. TUCKER)

[Passed March 11, 1982; in effect ninety days from passage.]

AN ACT to amend and reenact section six, article eleven-a, chapter forty-seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to unfair trade practices; how retailer cost is determined; and providing for increase in wholesale markup cost for doing business.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 11A. UNFAIR TRADE PRACTICES.


(a) The term “cost” when applicable to the business of retailer shall mean bona fide cost and shall mean (1) the invoice cost of the article, product or item of merchandise to the retailer or the replacement cost thereof to the retailer within thirty days prior to the date of sale, offer for sale or advertisement for sale, as the case may be, in the quantity last purchased, whichever is lower, from either of which there shall be deducted all trade discounts, except customary discounts for cash, and (2) to either of which there shall be added the following items of expense:

1. Freight charges not otherwise included in the cost of the article, product or item of merchandise, but which freight charges shall not be construed as including cartage to retail outlet if done or paid for by the retailer;
2. A markup to cover, in part, the cost of doing business, which markup, in the absence of proof of a lesser cost, shall be seven percent of the aggregate of invoice cost or replacement cost (whichever is used), less trade discounts as aforesaid, and plus said freight charges.

(b) The term "cost" when applicable to the business of a wholesaler shall mean bona fide cost and shall mean

(1) the invoice cost of the merchandise to the wholesaler plus applicable taxes, or the replacement cost of the merchandise to the wholesaler within thirty days prior to the date of sale, offer for sale or advertisement for sale, as the case may be, in the quantity last purchased, whichever is lower, from either of which there shall be deducted all trade discounts except customary discounts for cash and

(2) to either of which there shall be added the following items of expense:

1. Freight charges not otherwise included in the cost of the article, product or item of merchandise, but which freight charges shall not be construed as including cartage to the retail outlet if done or paid for by the wholesaler;

2. A markup to cover, in part, the cost of doing business, which markup in the absence of proof of a lesser cost, shall be four percent of the aggregate of invoice cost or replacement cost (whichever is used), less trade discounts as aforesaid, and plus said freight charges.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 29

day of March, 1982.

Governor