WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1987

ENROLLED

Committee Substitute for
SENATE BILL NO. 543

(By Senator Tucker)

PASSED March 14, 1987
In Effect ninety days from Passage
AN ACT to amend and reenact section one hundred thirty-eight, article two, chapter forty-six-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to right to cancel contracts for future deliveries of correspondence courses, truck driver, modeling or any other occupational or business course with private proprietary schools, or multiple magazine subscriptions; return of moneys to buyer; cause of action by buyer.

Be it enacted by the Legislature of West Virginia:

That section one hundred thirty-eight, article two, 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 2. CONSUMER CREDIT PROTECTION.

§46A-2-138. Buyer's right to cancel certain subscriptions and other obligations.

1 When a buyer has become indebted or paid cash on a contract for future deliveries of a correspondence course, on
any contract entered into after the effective date of this section for truck driver, modeling or any other occupational or business course with a private proprietary school, or a multiple magazine subscriptions contract, other than for single subscriptions direct with the publisher thereof, the buyer may cancel and terminate such contract at any time by mailing a notice of cancellation by first class United States mail to the person to whom the indebtedness is owed, or with whom the contract was made, or his assignee, which notice shall forthwith terminate and cancel any financial obligation for goods or services not received by the buyer prior to the mailing of such notice of cancellation. The indebtedness for correspondence course materials received and not returned shall not exceed the reasonable store purchase price of such materials. In addition thereto, in regard to a correspondence course contract (in part or wholly by correspondence) the buyer may cancel and terminate such indebtedness without regard to the amount of goods and services received by mailing such notice and by returning all materials received. The seller shall return all moneys due the buyer within twenty days of cancellation. Any buyer not receiving a refund of all moneys paid and due within twenty days of cancellation of any contract under this section has a direct cause of action upon any bond filed with the department of education or board of regents to secure performance of legal obligation pursuant to the provisions of section ten, article two, chapter eighteen of this code.

Notwithstanding any other provision of law to the contrary, with respect to contracts which are the subject of or are intended to become the subject of a transaction as provided for in this section, no seller shall:

(1) Exclude, modify or otherwise attempt to limit any provision addressed under this section; or

(2) Exclude, modify or attempt to limit any remedy provided by law, including the measure of damages available under this section.

Any such exclusion, modification or attempted limitation shall be void.
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 approved this the 28th day of March, 1987.

Governor