WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1987

ENROLLED
SENATE BILL NO. 762

(By Senators Craig and Shaw)

PASSED May 28, 1987
In Effect from Passage
ENROLLED

Senate Bill No. 762

(BY SENATORS CRAIGO AND SHAW)

[Passed May 28, 1987; in effect 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 empowering the board of education to promulgate rules and regulations to provide for a policy for refunding the purchase price of any such correspondence course.

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.

(a) 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 state board of education is
hereby empowered and directed to promulgate rules and
regulations setting forth policy for the refund of tuition fees
or other indebtedness and cancellation in whole or in part of
such a contract by a buyer, with regard to goods and
services not fully delivered. Such rules and regulations
shall include, but not be limited to, provisions for allowing
such cancellation by a buyer by mailing notice of intent to
cancel and returning all materials received, and that the
seller shall return any moneys due buyer within twenty
days upon receipt of the notice of cancellation.
(b) 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.
(c) 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.

Bruce O. Williams
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originated in the Senate.

In effect from passage.

Todd A. Abele
Clerk of the Senate

Donald L. Kopp
Clerk of the House of Delegates

Dan Tankersley
President of the Senate

Robert C. Atchfield
Speaker House of Delegates

The within ............th this the ............... day of ............. 1987.

Abebe Barksdale
Governor