

No: 543

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1987



ENROLLED

Committee Substitute for

SENATE BILL NO. 543

(By Senator Tucker)



PASSED March 14, 1987

In Effect ninty days from Passage



ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 543

(SENATOR TUCKER, *original sponsor*)

[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
- 2 contract for future deliveries of a correspondence course, on

3 any contract entered into after the effective date of this
4 section for truck driver, modeling or any other occupational
5 or business course with a private proprietary school, or a
6 multiple magazine subscriptions contract, other than for
7 single subscriptions direct with the publisher thereof, the
8 buyer may cancel and terminate such contract at any time
9 by mailing a notice of cancellation by first class United
10 States mail to the person to whom the indebtedness is owed,
11 or with whom the contract was made, or his assignee, which
12 notice shall forthwith terminate and cancel any financial
13 obligation for goods or services not received by the buyer
14 prior to the mailing of such notice of cancellation. The
15 indebtedness for correspondence course materials received
16 and not returned shall not exceed the reasonable store
17 purchase price of such materials. In addition thereto, in
18 regard to a correspondence course contract (in part or
19 wholly by correspondence) the buyer may cancel and
20 terminate such indebtedness without regard to the amount
21 of goods and services received by mailing such notice and by
22 returning all materials received. The seller shall return all
23 moneys due the buyer within twenty days of cancellation.

24 Any buyer not receiving a refund of all moneys paid and
25 due within twenty days of cancellation of any contract
26 under this section has a direct cause of action upon any
27 bond filed with the department of education or board of
28 regents to secure performance of legal obligation pursuant
29 to the provisions of section ten, article two, chapter
30 eighteen of this code.

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

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

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

40 Any such exclusion, modification or attempted limitation
41 shall be void.

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

[Signature]
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Jedd C. N. [Signature]
.....
Clerk of the Senate

Donald L. [Signature]
.....
Clerk of the House of Delegates

Don Tomhamil
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *approved* this the *28th*
March
day of 1987.

Paul A. [Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/23/87

Time 3:19 p.m.

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OFFICE OF THE
SHERIFF, CALIF.