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LEGISLATIVE SERVICES
GOVERNMENT CENTER

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2000



ENROLLED

House Bill No. 4805

(By Delegates Staton, Givens, Smirl, Faircloth,
; Linch, Schadler and Capito)



Passed March 11, 2000

In Effect Ninety Days from Passage

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CLERK OF THE HOUSE
OF DELEGATES

ENROLLED

H. B. 4805

(BY DELEGATES STATON, GIVENS, SMIRL, FAIRCLOTH,
LINCH, SCHADLER AND CAPITO)

[Passed March 11, 2000; in effect ninety days from passage.]

AN ACT to amend and reenact section thirty, article three, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to obtaining money, goods or other property from the state or any political subdivision of the state under a contract, by false pretense, token or representation, or by delivery of inferior commodities, with intent to defraud; setting forth legislative statement of purpose; extending to political subdivisions the offense of obtaining money, goods or other property under a contract, by false pretense, token or representation, or by delivery of inferior commodities, with intent to defraud, and providing penalties for such felony offense; prohibiting certain described defenses; and defining the term “inferior commodities”.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 3. PURCHASING DIVISION.

§5A-3-30. Statement of purpose; obtaining money and property under false pretenses or by fraud from the state or a political subdivision of the state; penalties; definition.

1 (a) The Legislature of the state of West Virginia hereby
2 declares that the purpose of this statute is to promote equal and
3 fair bidding for the purchase of commodities by the state and
4 any political subdivision of the state purchasing commodities
5 under any state contract; to eliminate fraud in the procurement
6 of commodities by the state.

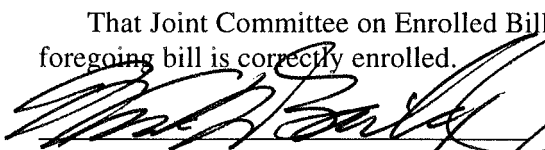
7 (b) It is unlawful for any person to obtain any money, goods
8 or other property from the state or any political subdivision of
9 the state under any contract made under the provisions of this
10 article, by false pretense, token or representation, or by delivery
11 of inferior commodities, with intent to defraud. A person who
12 violates this subsection is guilty of a felony, and, upon conviction
13 thereof, shall be confined in a state correctional facility for
14 not less than one year nor more than five years, and shall be
15 fined not exceeding one thousand dollars.

16 (c) It shall not be a defense to a charge under this section
17 that (1) the commodities purchased were accepted and used, or
18 are being used, by the state or a political subdivision of the
19 state, or (2) the commodities are functional or suitable for the
20 purpose for which the commodities were purchased by the state
21 or a political subdivision of the state notwithstanding the
22 standard or specification issued by the purchasing agency or the
23 division of purchasing.

24 (d) For the purpose of this section, "inferior commodities"
25 includes, but shall not be limited to, (1) any commodity which
26 does not meet the specification or standard issued by the
27 purchasing agency and the division of purchasing, or any

28 change order approved by both the purchasing agency and
29 division of purchasing, and (2) any commodity which is of a
30 lesser quality, quantity, or measure of any kind set forth within
31 the specification or standard issued by the purchasing agency
32 and the division of purchasing.

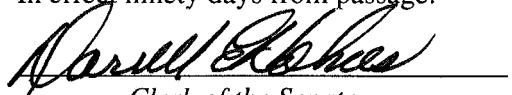
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

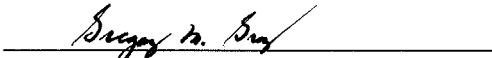

Chairman Senate Committee

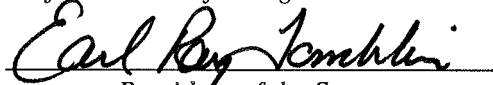

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

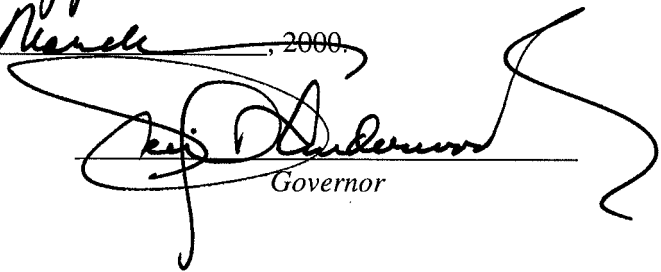

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 31st
day of March, 2000.


Governor

PRESENTED TO THE

GOVERNOR

Date: 3/27/00

Time: 3:05 pm