

H. B. 2260

(By Delegate Caputo)

[Introduced January 12, 2011; referred to the

Committee on Energy, Industry and Labor, Economic Development and

Small Business then the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-1-12; and to amend said code by adding thereto a new section, designated §46A-6F-401a, all relating to requiring certain vendors to use only persons authorized to work in the United States; establishing a customer's right to customer sales or customer service call center information; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §5A-1-12; and that said code be amended by adding thereto a new section, designated §46A-6F-401a, all to read as follows:

CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

1 **ARTICLE 1. DEPARTMENT OF ADMINISTRATION.**

2 **§5A-1-12. Certain vendors required to use only persons authorized**
3 **to work in the United States.**

4 (a) Ineligible vendors. -- The Secretary of the Department of
5 Administration and other entities to which this article applies may
6 not contract for telemarketing services or telephone center
7 services with any vendor that employs the services of any person
8 not authorized to work in the United States pursuant to federal
9 law, on behalf of the state. Such services shall also be performed
10 in the United States.

11 (b) Vendor certification. -- The Secretary of the Department
12 of Administration shall require each vendor submitting a bid or
13 contract to provide services for the state as set forth in
14 subsection (a) of this section to certify that only its employees
15 who are authorized to work in the United States pursuant to federal
16 law will be performing services under the contract.

17 Any person who violates this section is guilty of a felony
18 and, upon conviction thereof, shall be fined not more than \$1,000
19 or imprisoned in a state correctional facility not less than
20 eighteen months, or both fined and imprisoned.

21 (c) Void contracts. -- A contract entered into or performed in
22 violation of this section is void. A contract that is void under
23 this section may continue in effect until an alternative contract
24 can be arranged when: (1) Immediate termination would result in

1 harm to the public health or welfare; and (2) the continuation is
2 approved by the Secretary of the Department of Administration.
3 Approval of continuation of contracts under this subsection shall
4 be given for the minimum period necessary to protect the public
5 health or welfare.

6 **CHAPTER 46A. WEST VIRGINIA CONSUMER CREDIT**

7 **AND PROTECTION ACT.**

8 **ARTICLE 6F. TELEMARKETING.**

9 §46A-6F-401a. Definitions; customer's right to customer sales or
10 customer service call center information;
11 penalties.

12 (a) As used in this section the following terms mean:

13 (1) "Customer sales call center" means an entity whose primary
14 purpose includes initiating or receiving of telephonic
15 communications on behalf of any person for the purpose of
16 initiating sales, including telephone solicitations, as defined in
17 section one hundred twelve of this article.

18 (2) "Customer service call center" means an entity whose
19 primary purpose includes initiating or receiving of telephonic
20 communications on behalf of any person for the purposes of
21 providing or receiving services or information necessary in
22 connection with providing services or other benefits.

23 (3) "Customer services employee" means a person employed by or
24 working on behalf of a customer sales call center or a customer

1 service call center.

2 (4) "Identifying information" means social security numbers,
3 driver's license numbers, checking account numbers, savings account
4 numbers, credit card numbers, debit card numbers, personal
5 identification (PIN) code, electronic identification numbers and
6 digital signatures, and any other numbers or information that can
7 be used to access a person's financial resources, biometric data,
8 fingerprints, passwords and a parent's legal surname prior to
9 marriage.

10 (b) Any person who receives a telephone call from, or places
11 a telephone call to, a customer sales call center or a customer
12 service call center, upon request, has the right to:

13 (1) Know the identification of the city, state and country
14 where the customer service employee is located.

15 (2) Know the name or registered alias of the customer services
16 employee.

17 (3) Know the name of the employer of the person with whom the
18 person is speaking.

19 (4) Speak to a qualified employee of the company or government
20 agency the person is doing business with.

21 (c) No person who places a telephone call from, or receives a
22 telephone call to, a customer sales call center or a customer
23 service call center may send the customer's financial, credit or
24 identifying information to any foreign country without express

1 written permission of the customer.

2 (d) A willful violation of this article is an unfair or
3 deceptive trade practice under section five hundred one, article
4 six-f of this chapter and is subject to the causes of action set
5 forth in section five hundred two, article six-f of this chapter.

NOTE: The purpose of this bill is to establish the consumer's right to know regarding telemarketers; to require certain vendors to use only persons authorized to work in the United States; to establish customer's right to know a customer sales or customer service call center information; and providing a penalty.

These sections are new; therefore, they have been completely underscored.