

1 COMMITTEE SUBSTITUTE

2 for

3 **H. B. 4257**

4
5 (By Mr. Speaker, (Mr. Miley) and Delegate Armstead)

6 [By Request of the Executive]

7 (Originating in the Committee on the Judiciary)

8 [February 14, 2014]

9
10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new section, designated §15-5-19b, relating
12 to providing criminal penalties for the dissemination of false
13 information through automated telephone calls during a
14 declared state of emergency; establishing criminal liability
15 for a principal or employer who directs an agent or employee;
16 establishing that a violation with the intent to sell a
17 product or service is an unfair method of competition and
18 unfair or deceptive act or practice under the consumer credit
19 and protection act; and providing an exception to the pre-suit
20 notice and cure requirement for an alleged unfair method of
21 competition and unfair or deceptive act or practice.

22 *Be it enacted by the Legislature of West Virginia:*

23 That the Code of West Virginia, 1931, as amended, be amended
24 by adding thereto a new section, designated §15-5-19b, to read as
25 follows:

26 **ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.**

1 **§15-5-19b. Criminal penalties for using automated telephone calls**
2 **to disseminate false information during a state of**
3 **emergency; and authorizing civil remedies.**

4 (a) Any person, firm, corporation or association, or their
5 agents or employees who,

6 (1) During a proclamation made pursuant to section six of this
7 article;

8 (2) Knowingly and willfully disseminate information known to
9 be false;

10 (3) That relates to the emergency that is the subject of the
11 proclamation;

12 (4) To citizens affected by the emergency;

13 (5) Using an automated telephone call or calling device,
14 including but not limited to technology designed to disseminate a
15 previously recorded message or "robocall,"

16 is guilty of a misdemeanor, and upon conviction thereof, shall be
17 confined in jail for not more than one year and fined an amount not
18 to exceed \$5,000.

19 (b) A principal or employer who directs an agent or employee
20 to act in violation of subsection (a) is guilty of a misdemeanor,
21 and upon conviction thereof, shall be confined in jail for not more
22 than one year and fined an amount not to exceed \$5,000.

23 (c) A violation of subsection (a) with the intent to sell a
24 product or service, shall be deemed an "unfair method of
25 competition and unfair or deceptive act or practice" as that phrase

1 is defined by section one hundred two, article six, chapter forty-
2 six-A of this code and an action authorized by section one hundred
3 six, article six, chapter forty-six-A of this code, may be brought
4 without having first complied with subsection (b), section one
5 hundred six, article six, chapter forty-six-A of this code.

6 (d) For purposes of this section, the dissemination of one
7 false message to multiple citizens is one violation, regardless of
8 the number of calls actually placed or answered in that particular
9 instance.