

**H. B. 4584**

(By Delegates Caputo, R. Thompson, Tucker,  
Butcher, Walters, Williams and Stemple)

[Introduced February 23, 2004; referred to the  
Committee on the Judiciary.]

A BILL to amend the code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5A-1-11; 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 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-1-11; 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.**

**ARTICLE 1. DEPARTMENT OF ADMINISTRATION.**

**§5A-1-11. Certain vendors required to use only persons  
authorized to work in the United States.**

(a) *Ineligible vendors.* -- The secretary of the department of administration and other entities to which this article applies may not contract for telemarketing services or telephone center services with any vendor that employs the services of any person not authorized to work in the United States pursuant to federal law in the performance of telemarketing or telephone center services on behalf of the state and such services shall be performed in the United States.

(b) *Vendor certification.* -- The secretary of the department of administration shall require each vendor submitting a bid or contract to provide services for the state as set forth in subsection (a) of this section to certify that only its employees who are authorized to work in the United States pursuant to federal law will be performing services under the contract.

Any person who violates this section is guilty of a felony and, upon conviction thereof, shall be fined not more than one thousand dollars or imprisoned in a state correctional facility not less than eighteen months, or both fined and imprisoned.

(c) *Void contracts.* -- A contract entered into or performed in violation of this section is void. A contract that is void

under this section may continue in effect until an alternative contract can be arranged when: (1) Immediate termination would result in harm to the public health or welfare; and (2) the continuation is approved by the secretary of the department of administration. Approval of continuation of contracts under this subsection shall be given for the minimum period necessary to protect the public health or welfare.

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

**AND PROTECTION ACT.**

**ARTICLE 6F. TELEMARKETING.**

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

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

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

(b) Customer service call center means an entity whose primary purpose includes the initiating or receiving of telephonic communications on behalf of any person for the purposes of providing or receiving services or information

necessary in connection with the providing of services or other benefits.

(c) Customer services employee means a person employed by or working on behalf of a customer sales call center or a customer service call center.

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

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

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

(B) Know the name or registered alias of the customer services employee.

(C) Know the name of the employer of the person with whom the person is speaking.

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

(3) No person who places a telephone call from, or receives a telephone call to, a customer sales call center or a customer service call center may send the customer's financial, credit or identifying information to any foreign country without express written permission of the customer.

(4) A willful violation of this article is an unfair or deceptive trade practice under section five hundred one, article six-f of this chapter and is subject to the causes of action set 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, strike-throughs and underscoring have been omitted.