

VIRGINIA ACTS OF ASSEMBLY -- 2010 SESSION

CHAPTER 143

An Act to amend and reenact § 59.1-198 of the Code of Virginia, relating to the application of the Virginia Consumer Protection Act to consumer transactions involving churches and other religious bodies.

[S 116]

Approved March 11, 2010

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-198 of the Code of Virginia is amended and reenacted as follows:

§ 59.1-198. Definitions.

As used in this chapter:

"Business opportunity" means the sale of any products, equipment, supplies or services which are sold to an individual for the purpose of enabling such individual to start a business to be operated out of his residence, but does not include a business opportunity which is subject to the Business Opportunity Sales Act, Chapter 21 (§ 59.1-262 et seq.) of this title.

"Children's product" means a consumer product designed or intended primarily for children 12 years of age or younger. In determining whether a consumer product is primarily intended for a child 12 years of age or younger, the following factors shall be considered:

1. A statement by a manufacturer about the intended use of such product, including a label on such product if such statement is reasonable;

2. Whether the product is represented in its packaging, display, promotion, or advertising as appropriate for use by children 12 years of age or younger;

3. Whether the product is commonly recognized by consumers as being intended for use by a child 12 years of age or younger; and

4. The Age Determination Guidelines issued by the staff of the Consumer Products Safety Commission in September 2002, and any successor to such guidelines.

"Consumer transaction" means:

1. The advertisement, sale, lease, license or offering for sale, lease or license, of goods or services to be used primarily for personal, family or household purposes;

2. Transactions involving the advertisement, offer or sale to an individual of a business opportunity that requires both his expenditure of money or property and his personal services on a continuing basis and in which he has not been previously engaged;

3. Transactions involving the advertisement, offer or sale to an individual of goods or services relating to the individual's finding or obtaining employment; ~~and~~

4. A layaway agreement, whereby part or all of the price of goods is payable in one or more payments subsequent to the making of the layaway agreement and the supplier retains possession of the goods and bears the risk of their loss or damage until the goods are paid in full according to the layaway agreement; *and*

5. *Transactions involving the advertisement, sale, lease, or license, or the offering for sale, lease or license, of goods or services to a church or other religious body.*

"Cure offer" means a written offer of one or more things of value, including but not limited to the payment of money, that is made by a supplier and that is delivered to a person claiming to have suffered a loss as a result of a consumer transaction or to the attorney for such person. A cure offer shall be reasonably calculated to remedy a loss claimed by the person and it shall include a minimum additional amount equaling 10 percent of the value of the cure offer or \$500, whichever is greater, as compensation for inconvenience, any attorney's or other fees, expenses, or other costs of any kind that such person may incur in relation to such loss; provided, however that the minimum additional amount need not exceed \$4,000.

"Goods" means all real, personal or mixed property, tangible or intangible. For purposes of this chapter, intangible property includes but shall not be limited to "computer information" and "informational rights" in computer information as defined in § 59.1-501.2.

"Person" means any natural person, corporation, trust, partnership, association and any other legal entity.

"Services" includes but shall not be limited to (i) work performed in the business or occupation of the supplier, (ii) work performed for the supplier by an agent whose charges or costs for such work are transferred by the supplier to the consumer or purchaser as an element of the consumer transaction, or (iii) the subject of an "access contract" as defined in § 59.1-501.2.

"Supplier" means a seller, lessor or licensor who advertises, solicits or engages in consumer transactions, or a manufacturer, distributor or licensor who advertises and sells, leases or licenses goods

or services to be resold, leased or sublicensed by other persons in consumer transactions.