

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **House Bill 4422**

BY DELEGATE SKINNER

[Introduced February 5, 2016; referred to the  
committee on the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §46A-6N-1, §46A-6N-2, §46A-6N-3 and §46A-6N-4, all relating to creating the  
 3 Internet Service Provider Accountability Act; defining terms; making legislative findings;  
 4 designating a contract between an Internet service provider and a subscriber to be an  
 5 adhesion contract; and providing remedies.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 article, designated §46A-6N-1, §46A-6N-2, §46A-6N-3 and §46A-6N-4, all to read as follows:

**ARTICLE 6N. INTERNET SERVICE PROVIDER ACCOUNTABILITY ACT.**

**§46A-6N-1. Short title.**

1 This article may be known and cited as the "Internet Service Provider Accountability Act."

**§46A-6N-2. Definitions.**

1 For purposes of this article:

2 "Adhesion contract" means a standard form contract drafted by one party with stronger  
 3 bargaining power and signed by the weaker party who must adhere to the contract and therefore  
 4 does not have the power to negotiate or modify the terms of the contract.

5 "Internet", without limitations, means:

6 (A) The computer network commonly known as the Internet and any other local, regional  
 7 or global computer network that is similar to or is a predecessor or successor of the Internet;

8 (B) Any identifiable site on the Internet or such other computer network;

9 (C) A website or other similar site on the World Wide Web;

10 (D) A site that is identifiable through a Uniform Resource Location;

11 (E) A site on a computer network that is owned, operated, administered or controlled by  
 12 an Internet service provider;

13 (F) A list server;

14 (G) A newsgroup; or

15 (H) A chat room.

16 “Internet service provider” means any person who, for a fee or other consideration,  
17 provides subscribers with access to the Internet.

**§46A-6N-3. Legislative findings.**

1 The Legislature finds that a contract between an Internet service provider and a subscriber  
2 is an adhesion contract and, as such, many of its provisions are highly advantageous to the  
3 provider and leaves the subscriber with few, if any options. Therefore, in addition to all other  
4 remedies available to subscribers, including civil actions, injunctions and protections afforded  
5 elsewhere in this code, it is the public policy of this state that, as a matter of law, the remedies as  
6 set forth in section four of this article shall be added to all contracts between an Internet service  
7 provider and a subscriber.

**§46A-6N-4. Remedies.**

1 (a) In the event a subscriber loses service for more than an hour during a twenty-four hour  
2 day, the subscriber shall receive a credit for one day of service for the next billing cycle.

3 (b) In the event the subscriber loses service for more than an hour during a twenty-four  
4 hour period for any two days within a billing cycle, the subscriber shall receive a credit for one  
5 week of service for the next billing cycle.

6 (c) In the event the subscriber loses service for more than an hour during a twenty-four  
7 hour period for any three days within a billing cycle, the subscriber shall receive a credit for one  
8 month of service for the next billing cycle.

9 (d) In the event the subscriber has lost service for more than three separate days in one  
10 month, the subscriber may terminate the service agreement and may not be penalized or owe  
11 any additional fees, including, but not limited to, early termination fees.

NOTE: The purpose of this bill is to create the Internet Service Provider Accountability Act. The bill defines terms. The bill makes legislative findings. The bill designates a contract between an Internet service provider and a subscriber to be an adhesion contract. The bill provides remedies.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.