

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

Introduced

### House Bill 4403

BY DELEGATES ROBINSON, MILLER, LOVEJOY,  
CANESTRARO, N. BROWN, FLUHARTY, HORNBUCKLE,  
BYRD, SKAFF, WORRELL AND KESSINGER

[Introduced January 17, 2020; Referred to the  
Committee on Technology and Infrastructure then the  
Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §46A-6-111, relating to establishing limitations on billing practices of Internet  
 3 providers relating to customer outages; and establishing civil penalties.

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

**ARTICLE 6. GENERAL CONSUMER PROTECTION.**

**§46A-6-111. Limitations on Internet service provider charges during service outages; penalty.**

1 (a) Legislative purpose – The purpose of this section is to prohibit Internet service  
 2 providers doing business in this state from charging a customer for services that the customer  
 3 has not received and further, prohibiting billing of customer for services during a service  
 4 interruption. The Legislature recognizes that service failures occur beyond the control and of no  
 5 fault of the Internet provider, but an inherent unfairness exists in the relationship between Internet  
 6 providers and their customers that allows the Internet service provider to require the customer to  
 7 pay for considerable periods of nonservice. Further, that the Internet provider has a  
 8 disproportionate control over consumer provider agreements, and the contracts offered  
 9 consumers are essentially “take it or leave it” propositions, where if a the consumer wants Internet  
 10 service has to either agree to all terms and conditions of an internet service agreement, or not get  
 11 service, and the service agreements may require that the consumer pay for time-periods when  
 12 the consumer is not receiving services. Therefore, the purpose of this section is to place some  
 13 reasonable limitations on the billing practices of Internet providers to assure that consumers are  
 14 not required to pay for long service outages when he or she did not receive services, and further,  
 15 prohibit billing for these services in periods when the consumer is not receiving Internet services.

16 (b) Within 12 hours of receipt of complaint of no service from an Internet service customer,  
 17 the service provider shall provide notice to the customer that the provider has received notice of  
 18 the outage. Once a provider has received notice of no service, the provider may not request  
 19 payment from the customer until such time the Internet service provider verifies that service has

20 been restored. In the event that a customer has lost service for a period of greater than 24 hours  
21 during a single billing cycle, the customer may not be charged for any 24-hour time period where  
22 service is not being provided.

23 (c) In the event a provider has violated any of the provisions of subsection (b) of this  
24 section, the customer has a cause of action to recover the excessive costs billed that person and  
25 all fees and costs of collection and, in addition, a civil penalty may be assessed, in an amount  
26 determined by the court, of not less than \$100 nor more than \$1,000, for each violation.

NOTE: The purpose of this bill is to establish limitations on billing practices of Internet providers relating to customer outages. The bill establishes civil penalties.

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