

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2512**

4
5 (By Delegates Swartzmiller, Boggs, Caputo, Iaquina, Hall,

6 Manypenny, Martin, D. Poling, Shaver and Williams)

7 (Originating in the Committee on the Judiciary)

8 [February 23, 2011]

9
10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §47-26-1, §47-26-2,
12 §47-26-3; §47-26-4§ and §47-26-5, all relating to pawnbrokers;
13 requiring pawnbrokers to obtain a signed statement affirming
14 ownership from each seller or pledgor on all sale or pawn
15 transactions, except for refinance pawn transactions or
16 merchandise bought from a manufacturer or wholesaler with an
17 established place of business; requiring pawnbrokers to make
18 a pawn transaction report for each purchase, loan or sale of
19 property, except with regard to refinance pawn transactions or
20 merchandise bought from a manufacturer or wholesaler with an
21 established place of business; setting forth the minimum
22 information to be contained in such pawn transaction reports;
23 requiring pawnbrokers to retain records; requiring pawnbrokers
24 to provide a copy of the pawn transactions reports or a
25 summary pawn transaction report to local law enforcement
26 officials each month; requiring pawnbrokers to make such

original records available for inspection by law enforcement officials or agencies on request; making a pawnbroker's failure to comply with the requirements of this article a misdemeanor; making the filing of a false statement of ownership a misdemeanor; establishing criminal penalties for offenses; and definitions.

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 article, designated §47-26-1, §47-26-2, §47-26-3, §47-26-4 and §47-26-5, all to read as follows:

ARTICLE 25. PAWNBROKERS.

§47-25-1. Definitions.

(a) "Pawnbroker" means any person, partnership, association or corporation advancing money in a pawn transaction in exchange for collateral in the property of the pledgor.

(b) "Pawn transaction" means a transaction between a pawnbroker and a pledgor where the pledgor's property is placed in the possession of the pawnbroker as security for money or other valuable consideration provided to the pledgor on the condition that the pledgor may pay a pawn charge and redeem his or her property within a predetermined time frame. Pawn transactions do not include those transactions where securities or printed evidence of indebtedness are used as security for the transaction.

(c) "Pledgor" means a person who delivers the pledge into the possession of a pawnbroker, unless such person discloses that he or she is acting on behalf of another, and in such an event "pledgor"

1 means the disclosed principal.

2 **§47-25-2. Pawn Transaction Record.**

3 (a) All pawnbrokers shall make and maintain a transaction
4 report on all sale or pawn transactions, except for refinance pawn
5 transactions or merchandise bought from a manufacturer or
6 wholesaler with an established place of business. The required
7 transaction report shall include the following, at a minimum:

8 (1) The date of the transaction;

9 (2) The name of the seller;

10 (3) The name of the purchaser;

11 (4) The name of the clerk who handled the transaction;

12 (5) The corresponding pawn ticket number;

13 (6) The terms of the loan or purchase;

14 (7) A copy of the seller's photo identification and type; and,

15 (8) A detailed description of the property.

16 (b) For purposes of meeting the requirements of subsection (a)
17 of this section, a detailed description of the property must
18 include the following:

19 (1) In the case of firearms, the description must include, at
20 a minimum, the brand, model, caliber, type, serial number, and
21 estimated value of the firearm;

22 (2) In the case of jewelry, the type of jewelry presented, the
23 karat weight, whether it is made of white gold, yellow gold or
24 other precious metals, and other description of the stones, shape,
25 cut, oddities, etc. which are sufficient to describe the article of
26 jewelry, and the estimated value of the item of jewelry;

1 (3) In the case of other types of articles and property, the
2 description shall include the type of article, brand, model and
3 serial number on the article, or any other such identifying
4 information or description to which is sufficient to specifically
5 describe the item or property, and the estimated value of the
6 article.

7 (c) The seller must be required to sign the pawn transaction
8 statement; and a signed statement from the seller affirming
9 ownership must appear on the bill of sale or pawn ticket that is
10 completed by the seller or pledgor at the time of the transaction.

11 (d) The pawnbroker shall maintain the original of all pawn
12 transaction statements for a minimum of five years, and shall make
13 the original copies of the pawn transactions statements available
14 for inspection by law enforcement officers and law enforcement
15 agencies upon request.

16 (e) At the conclusion of each month, the pawnbroker shall make
17 one or both of the following available to the state, county,
18 municipal or local law enforcement agency which has primary
19 jurisdiction over the pawn shop's location:

20 (1) A copy of all pawn transaction statements for that month;
21 or

22 (2) A summary pawn transaction report which is sufficient to
23 identify the pawn transactions performed for that month, and the
24 description of the articles received and sold during that month.

25 **§47-25-3. Penalties; pledgor, pawnbroker.**

26 (a) A seller or pledgor who falsely affirms ownership in a

1 pawn transaction is guilty of obtaining money, property and
2 services by false pretenses and subject to the penalties of section
3 twenty-four, article three, chapter sixty-one of this Code.

4 (b) A pawnbroker who violates the provisions of this article
5 is guilty of a misdemeanor, and shall be fined not less than \$100
6 and not more than \$200 for each offense.

7 **§47-25-4. Retention of records.**

8 A pawnbroker shall maintain in either paper or electronic form
9 for not less than three years the completed pawn transaction forms
10 and signed ownership statements of each seller or pledgor, and make
11 such records available for a period of at least five years.

12 **§47-26-5. County and municipal regulation of pawnbrokers.**

13 This article may not be construed to prohibit or otherwise
14 limit any county or municipality of this state from adopting an
15 ordinance, to the extent that the ordinance does not conflict or
16 create lesser requirements than this article or any other provision
17 of this code, establishing additional requirements of pawnbrokers
18 within its jurisdiction. Pawnbrokers located in a county or
19 municipality in which an ordinance establishes reporting
20 requirements to local law-enforcement officials are not required to
21 provide duplicate information to other law-enforcement officials
22 pursuant to section three of this article.