

H. B. 2512

(By Delegates Swartzmiller, Boggs, Caputo, Iaquina, Hall,
Manypenny, Martin, D. Poling, Shaver and Williams)

[Introduced January 17, 2011; referred to the
Committee on the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new article, designated §47-26-1, §47-26-2,
§47-26-3, §47-26-4, §47-26-5, §47-26-6, §47-26-7, §47-26-8 and
§47-26-9, all relating to pawnbrokers; definitions; requiring
pawnbrokers to comply with the provisions of this article;
establishing operating requirements for pawnbrokers;
confiscation of pledged or purchased goods; establishing
requirements for pawn tickets; requiring pawn transaction
reporting; establishing disclosure requirements for pawn
transactions to law-enforcement officers; authorizing the
commissioner of banking to promulgate forms and propose
necessary legislative rules; and establishing misdemeanor
offenses for persons engaging in the business of a pawnbroker
in violation the provisions of this article and for persons
using false or altered identification to pawn or sell property

1 to a pawnbroker and criminal penalties upon conviction
2 thereof.

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

4 That the Code of West Virginia, 1931, as amended, be amended
5 by adding thereto a new article, designated §47-26-1, §47-26-2,
6 §47-26-3, §47-26-4, §47-26-5, §47-26-6, §47-26-7, §47-26-8 and §47-
7 26-9, all to read as follows:

8 **ARTICLE 26. PAWNBROKERS.**

9 **§47-26-1. Definitions.**

10 (a) "Commissioner" means the Commissioner of Banking of West
11 Virginia established in section one, article two, chapter
12 thirty-one-a of this code;

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

16 (c) "Pawn transaction" means a transaction between a
17 pawnbroker and a pledgor where the pledgor's property is placed in
18 the possession of the pawnbroker as security for money or other
19 valuable consideration provided by the pawnbroker on the condition
20 that the pledgor may pay a pawn charge and redeem his or her
21 property within a predetermined time frame: Provided, That pawn
22 transactions do not include those transactions where securities or
23 printed evidence of indebtedness are used as security for the
24 transaction.

1 (d) "Pledge" means an article or articles of property
2 deposited with a pawnbroker by a pledgor as security for money or
3 other consideration in a pawn transaction.

4 (e) "Pledgor" means a person who delivers the pledge into the
5 possession of a pawnbroker, unless such person discloses that he or
6 she is acting on behalf of another, and in such an event "pledgor"
7 means the disclosed principal.

8 **§47-26-2. Pawnbrokers to comply with the provisions of this**
9 **article.**

10 (a) On and after July 1, 2011, persons engaged in business as
11 a pawnbroker shall comply with the provisions of this article.

12 (b) Only licensed pawnbrokers that comply with the provisions
13 of this article may:

14 (1) Display any sign or other device in or about a place of
15 business, or use any advertising or printing material that
16 resembles an emblem or sign commonly used by pawnbrokers;

17 (2) Display any sign or other device in or about a place of
18 business or use any advertising or printing material indicating
19 that pawnbroker transactions take place at the business; and

20 (3) Represent to the public that he or she is a pawnbroker or
21 use the word "pawnbroker" either through advertising, soliciting,
22 signs or otherwise.

23 **§47-26-3. Operating requirements of pawnbrokers.**

24 (a) All pawnbrokers shall continuously display their business

1 hours on the exterior front door of their place of business or on
2 another conspicuous location that is clearly visible to the public.

3 (b) Items bought outright by a pawnbroker shall be held for
4 seven days before being disposed of or sold and shall be subject to
5 the reporting requirements of sections six and seven of this
6 article: *Provided, That items on invoice purchased from a*
7 manufacturer or wholesaler with an established place of business
8 are exempt from the provisions of this subsection.

9 (c) Property pledged to or purchased outright by a pawnbroker
10 may not be disfigured or its identity destroyed or affected in any
11 manner while under the control of the pawnbroker nor may any
12 property be concealed for forty-eight hours after the property is
13 received by the pawnbroker: *Provided, That items on invoice*
14 purchased from a manufacturer or wholesaler with an established
15 place of business are exempt from the provisions of this
16 subsection.

17 (d) All pawnbrokers shall obtain a statement from each seller
18 or pledgor on all sale or pawn transactions, except for refinance
19 pawn transactions or merchandise bought from a manufacturer or
20 wholesaler with an established place of business, affirming that
21 the pledger or seller is the lawful owner of the property and that
22 the property is free of all encumbrances. The statement shall
23 appear on the bill of sale or pawn ticket that is completed by the
24 seller or pledgor at the time of the transaction.

1 (e) All pawnbrokers and their employees or agents shall admit
2 the chief law-enforcement officer, or his or her authorized agent
3 with the approval of the chief, of the jurisdiction where the
4 business is located or any law-enforcement officer of the state
5 during the pawnbroker's posted, regular business hours. The
6 pawnbroker shall permit the officer to examine all records,
7 including pawn tickets and pawn transaction forms, required by this
8 article and any property listed in a record that is believed by the
9 officer to be missing or stolen.

10 **§47-26-4. Confiscation of pledged or purchased goods.**

11 (a) Pledged or purchased goods may not be confiscated
12 without a police report being filed by the rightful owner of the
13 property.

14 (b) Pledged or purchased goods can be put on a one-time,
15 thirty day hold by the authorized law-enforcement authorities.

16 **§47-26-5. Powers and duties of the banking commissioner.**

17 The commissioner shall prescribe and publish all forms may be
18 necessary, and may propose rules for legislative approval in
19 accordance with the provisions of article three, chapter
20 twenty-nine-a of this code as needed, to effectuate the provisions
21 of this article.

22 **§47-26-6. Requirements for pawn tickets.**

23 (a) Every pawnbroker shall keep at his or her place of
24 business an accurate and legible record of all pawn tickets written

1 by the pawnbroker for the previous three years. A pawn ticket
2 shall be written in ink or by another permanent recordation method
3 of each transaction made in the course of his or her business. The
4 pawn ticket shall be made at the time of the transaction and shall
5 include at a minimum:

6 (1) A description of the make, manufacturer, model, model
7 number, size, shape, serial number, year of manufacture or other
8 description of the property received;

9 (2) The time, date and place of the transaction;

10 (3) A transaction number for each individual piece of property
11 received;

12 (4) The full name, residence address, and home telephone
13 number of the person or persons, together with a personal
14 description, including the height, weight, date of birth, social
15 security number, hair, and eye color of such person or persons;

16 (5) Verification of the identity of the person by the
17 pawnbroker by examining the state-issued identification card,
18 driver's license or federal passport other government-issued photo
19 identification card of the person and noting the identification
20 exhibited, the issuing agency, and the number thereon with a copy
21 thereof being kept by the pawnbroker;

22 (6) The maturity date, amount financed, finance charge, total
23 payments, annual percentage rate, payment schedule and prepayment
24 terms;

1 (7) The signature of the pledgor upon placing the pledge and
2 upon redeeming the pledge; and

3 (b) In addition to the information required in subsection (a)
4 of this section, a description of firearms including the
5 manufacturer, make model and serial number of the firearms.

6 **§47-26-7. Required transaction reporting on a pawn transaction**
7 **form.**

8 (a) Every pawnbroker shall each day prepare a report on a pawn
9 transaction form of all the transactions conducted by the
10 pawnbroker for that day. Transactions shall be entered on the
11 report in chronological order of the occurrences of the
12 transactions.

13 (b) The pawn transaction form shall include all the
14 information required by section five of this article.

15 (c) The pawn transaction form shall be made available to
16 law-enforcement officers pursuant to section three of this article.

17 **§47-26-8. County and municipal regulation of pawnbrokers.**

18 This article may not be construed to prohibit or otherwise
19 limit any county or municipality of this state from adopting an
20 ordinance, to the extent that the ordinance does not conflict or
21 create lesser requirements than this article or any other provision
22 of this code, establishing additional requirements of pawnbrokers
23 within its jurisdiction. Pawnbrokers located in a county or
24 municipality in which an ordinance establishes reporting

1 requirements to local law-enforcement officials are not required to
2 provide duplicate information to other law-enforcement officials
3 pursuant to section three of this article.

4 **§47-26-9. Criminal penalties for violation of this article.**

5 (a) Any person who engages in the business of a pawnbroker in
6 violation of this article is guilty of a misdemeanor and, upon
7 conviction thereof, shall be fined not more than \$1,000.

8 (b) Any person selling or pledging property to a pawnbroker
9 who uses false or altered identification or a false declaration of
10 ownership in violation of the provisions in this article is guilty
11 of a misdemeanor and, upon conviction thereof, shall be fined not
12 more than \$500 or confined in jail not more than one year, or both
13 fined and confined.

NOTE: The purpose of this bill is to establish operating and other requirements for pawnbrokers and pawn transactions. The bill: establishes operating requirements for pawnbrokers; establishes procedures for confiscation of goods; establishes requirements for pawn tickets; requires pawn transaction reporting; establishes disclosure requirements for pawn transactions to law-enforcement officers; authorizes the Commissioner of Banking to promulgate forms and propose necessary legislative rules; and establishes misdemeanor offenses for persons engaging in the business of a pawnbroker in violation the provisions of this article and for persons using false or altered identification to pawn or sell property to a pawnbroker and criminal penalties upon conviction thereof.

Article §47-26-1 through §47-26-9 is new; therefore, it has been completely underscored.