

COMMITTEE SUBSTITUTE

FOR

H. B. 2512

(BY DELEGATES SWARTZMILLER, BOGGS, CAPUTO, IAQUINTA,
HALL, MANYPENNY, MARTIN, D. POLING, SHAVER
AND WILLIAMS)

(Originating in the Committee on the Judiciary)
[February 23, 2011]

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§ and §47-26-5, all relating to pawnbrokers; requiring pawnbrokers to obtain a signed statement affirming ownership from each seller or pledgor on all sale or pawn transactions, except for refinance pawn transactions or merchandise bought from a manufacturer or wholesaler with an

established place of business; requiring pawnbrokers to make a pawn transaction report for each purchase, loan or sale of property, except with regard to refinance pawn transactions or merchandise bought from a manufacturer or wholesaler with an established place of business; setting forth the minimum information to be contained in such pawn transaction reports; requiring pawnbrokers to retain records; requiring pawnbrokers to provide a copy of the pawn transactions reports or a summary pawn transaction report to local law-enforcement 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.

1 (a) “Pawnbroker” means any person, partnership,
2 association or corporation advancing money in a pawn
3 transaction in exchange for collateral in the property of the
4 pledgor.

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

14 (c) “Pledgor” means a person who delivers the pledge
15 into the possession of a pawnbroker, unless such person
16 discloses that he or she is acting on behalf of another, and in
17 such an event “pledgor” means the disclosed principal.

§47-25-2. Pawn Transaction Record.

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

7 (1) The date of the transaction;

8 (2) The name of the seller;

9 (3) The name of the purchaser;

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

11 (5) The corresponding pawn ticket number;

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

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

14 and,

15 (8) A detailed description of the property.

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

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

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

28 (3) In the case of other types of articles and property, the
29 description shall include the type of article, brand, model and
30 serial number on the article, or any other such identifying
31 information or description to which is sufficient to
32 specifically describe the item or property, and the estimated
33 value of the article.

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

39 (d) The pawnbroker shall maintain the original of all
40 pawn transaction statements for a minimum of five years, and
41 shall make the original copies of the pawn transactions
42 statements available for inspection by law-enforcement
43 officers and law-enforcement agencies upon request.

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

48 (1) A copy of all pawn transaction statements for that
49 month; or

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

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

1 (a) A seller or pledgor who falsely affirms ownership in
2 a pawn transaction is guilty of obtaining money, property and
3 services by false pretenses and subject to the penalties of

4 section twenty-four, article three, chapter sixty-one of this
5 Code.

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

§47-25-4. Retention of records.

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

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

1 This article may not be construed to prohibit or otherwise
2 limit any county or municipality of this state from adopting
3 an ordinance, to the extent that the ordinance does not
4 conflict or create lesser requirements than this article or any
5 other provision of this code, establishing additional
6 requirements of pawnbrokers within its jurisdiction.
7 Pawnbrokers located in a county or municipality in which an

8 ordinance establishes reporting requirements to local law-
9 enforcement officials are not required to provide duplicate
10 information to other law-enforcement officials pursuant to
11 section three of this article.