

H. B. 4106

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(By Delegates Morgan, Stephens, Swartzmiller,
Givens, Butcher, Talbott, Jones, Romine,
Nelson and Storch)

[Introduced January 18, 2012; referred to the
Committee on Government Organization then the Judiciary.]

**Interim
Bill**

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §61-3-49b, relating
to the registration of pawnbrokers; requiring pawnbrokers to
keep certain records; requiring pawnbrokers to obtain specific
identification information for certain transactions; requiring
pawnbrokers to submit certain information to law-enforcement
agencies; providing that information obtained by pawnbrokers
is to be kept confidential; requiring the State Police to
maintain database of information received from pawnbrokers;
specifying duration pawnbrokers and law-enforcement agencies
are to retain information for three years; defining terms;
establishing penalties; and providing rule-making authority.

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 section, designated §61-3-49b, to read as

1 follows:

2 **ARTICLE 3. CRIMES AGAINST PROPERTY.**

3 §61-3-49b. Registration of pawnbrokers; records and reports of
4 pawn transactions; criminal penalties.

5 (a) For the purpose of this section, the following terms have
6 the following meanings:

7 (1) "Pawn ticket" means the written record of a pawn
8 transaction. Pawn tickets shall be serially numbered for the
9 purpose of identification.

10 (2) "Pawn transaction" means a transaction in which the
11 pawnbroker:

12 (A) Lends money on the pledge of personal property, other than
13 a security or printed evidence of indebtedness;

14 (B) Purchases personal property on the express or implied
15 agreement or understanding of selling it back to the pledgor for a
16 fixed or variable price within a fixed or variable time; or

17 © Purchases any item of personal property.

18 (3) "Pawnbroker" means a person or business entity, or any
19 agent or employee thereof, that is engaged or participates in the
20 business of purchasing tangible personal property on the condition
21 that the goods or tangible personal property may be redeemed or
22 repurchased by the pledgor for a fixed or variable price within a
23 fixed or variable time period.

1 (4) "Pledgor" means the person leaving the personal property
2 with the pawnbroker and executing a pawn ticket.

3 (5) "Redeem" means the act of the pledgor or pledgor's agent
4 of retrieving and paying in full all charges and fees for the
5 pledged goods or tangible personal property left with a pawnbroker.

6 (b) A pawnbroker shall make a complete and accurate pawn
7 ticket for every pawn transaction. A separate pawn ticket shall be
8 made for each item and each pawn ticket shall include:

9 (1) The full name, permanent home address and business
10 address, and telephone number of the pledgor;

11 (2) The pledgor's date of birth;

12 (3) The pledgor's driver's license number;

13 (4) An accurate, legible description of each item pledged or
14 sold, including the manufacturer's name, model number, serial
15 number, caliber, size, color, and type of item, as well as any
16 owner applied number, inscription or monogram; and

17 (5) The date and time of the pawn transaction.

18 © The pledgor and pawnbroker shall each sign the pawn ticket.

19 The pledgor shall also attest to the following statement that shall
20 appear on the pawn ticket in bold face type: "All information
21 contained within this pawn ticket is complete and accurate. I am
22 the owner of the goods described in this pawn ticket or I am
23 authorized to enter into this transaction on behalf of the owner of

1 the goods described in this pawn ticket. I understand that I will
2 face criminal penalties if the information in this pawn ticket is
3 not complete and accurate, if I am not the owner of the goods
4 described herein, or if I am not authorized to enter into the pawn
5 transaction on behalf of the owner of the goods."

6 (d) The pawnbroker shall obtain a photocopy of a valid
7 driver's license or identification card issued by the West Virginia
8 Division of Motor Vehicles of the pledgor, or in lieu thereof, any
9 other valid photo identification of the pledgor issued by any other
10 state or the federal government, and verify the pledgor's identity.
11 The pawnbroker shall attach the photocopy to the pawn ticket.

12 (e) A pawnbroker shall individually tag each item involved in
13 the pawn transaction so that it corresponds with the pawn ticket
14 number.

15 (f) Each pawn ticket shall be retained by a pawnbroker for a
16 period of three years following the date of the pawn transaction.
17 Upon completion of the pawn transaction, the pawn ticket shall be
18 available for inspection by any law-enforcement officer or, upon
19 written request and during the pawnbroker's regular business hours,
20 by any investigator employed by a public utility or railroad to
21 investigate the theft of public utility or railroad property:
22 Provided, That nothing contained herein precludes a pawnbroker from
23 filing the pawn ticket or the information contained therein with

1 the local detachment of the State Police on a form designated by
2 the State Police.

3 (g) Commencing July 1, 2013, all pawnbrokers shall register
4 with the State Police and submit the pawn ticket information to the
5 State Police in accordance with the legislative rules promulgated
6 pursuant to this section.

7 (h) On or before July 30, 2012, the State Police shall propose
8 rules for legislative approval, in accordance with article three,
9 chapter twenty-nine-a of this code, to implement this section,
10 including:

11 (1) The manner and method, whether electronic or otherwise,
12 that pawnbrokers are to submit pawn ticket information to the State
13 Police;

14 (2) The time and frequency that pawnbrokers are to submit pawn
15 ticket information to the State Police;

16 (3) Provisions that require the State Police to share the pawn
17 ticket information with other law-enforcement agencies;

18 (4) A registration system, whether electronic or otherwise,
19 that provides for pawnbrokers to be registered on and after July 1,
20 2013;

21 (5) A registration fee that shall be used for the
22 administration of this section; and

23 (6) Provisions that require all payments made by a pawnbroker

1 to a pledgor be made by check.

2 (I) The State Police may promulgate emergency rules pursuant
3 to section fifteen, article three, chapter twenty-nine-a of this
4 code, to implement this section.

5 (j) The information required to be collected by a pawnbroker
6 pursuant to this section is confidential, is not public record, and
7 should only be disclosed as provided in this section or otherwise
8 provided by law: *Provided*, That the confidential nature of this
9 information is no way impedes the pawnbrokers duty to accurately
10 collect and timely provide the information to the State Police.

11 (k) Any law-enforcement officer may review the pawn ticket to
12 aid in the officer's investigation of stolen property.

13 (l) Upon the entry of a final determination and order by a
14 court of competent jurisdiction, personal property found to have
15 been misappropriated, stolen or taken under false pretenses may be
16 returned to the proper owner.

17 (m) The State Police may suspend or revoke the registration of
18 any pawnbroker who fails to properly register with the State
19 Police, fails to timely provide pawn ticket information to the
20 State Police, or violates any other provision of this section.

21 (n) A pledgor who falsely affirms ownership in a pawn
22 transaction is guilty of obtaining money, property and services by
23 false pretenses and subject to the penalties of section twenty-

1 four, article three, chapter sixty-one of this code.

2 (o) A pawnbroker who violates this article is guilty of a
3 misdemeanor and, shall be fined not less than \$100 and not more
4 than \$200 for each offense.

5 (p) This section does not apply to:

6 (1) Banks, credit unions, savings and loan associations or
7 finance companies regulated by the Division of Banking; or

8 (2) A transaction by a pawnbroker directly from a manufacturer
9 or wholesaler with an established place of business.

NOTE: The purpose of this bill is to require pawnbrokers to register with the State Police and collect certain information from their customers. The bill also gives rule making authority to the State Police to direct how pawnbrokers are to submit information collected to the State Police.

This section is new; therefore, it has been completely underscored.

This bill is an interim bill recommended for introduction and passage during the Regular Session of the Legislature by the Joint Standing Committee on Government Organization.