WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

House Bill 4329

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[Introduced January 26, 2018; Referred to the

Committee on the Judiciary.]

1   A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,

2   designated §47-26-2a, relating to requiring pawnbrokers to providing certain information

3   to law-enforcement agencies; specifying pawnbrokers requirement to transmit pawn and

4   purchase information electronically to a third-party database; defining terms; providing

5   reportable data through third-party database; providing that pawnbrokers are responsible

6   for establishing and maintaining the database; providing that law-enforcement agencies

7   may be charged for access to the database; providing who may access reportable data

8   through the database; and specifying pawnbroker requirements.

Be it enacted by the Legislature of West Virginia:

ARTICLE 26. PAWNBROKERS.

§47-26-2a. Providing information to law-enforcement agencies; providing information through third-party database.

1   (a) The pawnbroker shall satisfy the requirements of section (2) of this article by

2   transmitting the pawn and purchase transaction information electronically to a database in

3   accordance with this section: *Provided*, That paper copies shall be made available for an on-site

4   inspection upon request of any appropriate law-enforcement authority.

5   (b) As used in this section:

6   (1) "Database" means a computer database established and maintained by a third party

7   engaged in the business of establishing and maintaining one or more databases;

8   (2) "Permitted user" means persons authorized by law-enforcement personnel to access

9   the database;

10   (3) "Reportable data" means the information required to be recorded by pawnbrokers for

11   pawn and purchase transactions pursuant to section 2 of this article;

12   (4) "Reporting pawnbroker" means a pawnbroker who transmits reportable data

13   electronically to the database; and

14   (5) "Search" means the accessing of a single database record.

15   (c) The database shall provide appropriate law-enforcement officials with the information

16   contained in section (2) of this article to facilitate the investigation of alleged property crimes while

17   protecting the privacy rights of pawnbrokers and pawnshop customers with regard to their

18   transactions.

19   (d) The database shall enable reporting pawnbrokers to transmit to the database through

20   the Internet reportable data for each pawn and purchase transaction. The database shall contain

21   the pawn and purchase transaction information recorded by reporting pawnbrokers pursuant to

22   this section. The database shall also contain security features and protections necessary to

23   ensure that the reportable data maintained in the database can only be accessed by permitted

24   users in accordance with the provisions of this section. Pawn and purchase transaction

25   information shall maintain its confidential status and shall only be used for law-enforcement

26   purposes consistent with the provisions of this article.

27   (e) Pawnbrokers shall be responsible for establishing and maintaining the database.

28   Pawnbrokers may charge law-enforcement agencies for access to the database. Law-

29   enforcement agencies may be charged directly by the third party or by the pawnbroker for access

30   to the database, and the charge shall be reasonable in relation to the costs of the pawnbroker in

31   establishing and maintaining the database.

32   (f) The information in the database may only be accessible through the Internet to

33   permitted users who have provided a secure identification or access code to the database.

34   Permitted users may access database information from any jurisdiction within this state. The

35   database shall record, for each search, the identity of the permitted user, the pawn or purchase

36   transaction involved in the search, and the identity of any customer accessed through the search.

37   Each search record shall be made available to other permitted users within this state regardless

38   of their jurisdiction.

39   (g) Pawnbrokers shall meet the following requirements:

40   (1) Provide all reportable data to permitted users by transmitting it through the Internet to

41   the database;

42   (2) Transmit all reportable data for one business day to the database prior to the end of

43   the following business day; and

44   (3) Make available for on-site inspection to any appropriate law-enforcement official, upon

45   request, paper copies of any pawn or purchase transaction documents.

46   (h) If a reporting pawnbroker or permitted user discovers any error in the reportable data,

47   notice of the error shall be given to the database, which has 30 days in which to correct the error.

48   Any reporting pawnbroker experiencing a computer malfunction preventing the transmission of

49   reportable data or receipt of search requests is allowed no more than 60 days to repair the

50   malfunction, and during that period the pawnbroker is not in violation of this section if good faith

51   efforts are made to correct the malfunction.

52   (i) A reporting pawnbroker is not obligated to incur any cost, other than Internet service

53   costs, in preparing, converting, or delivering its reportable data to the database.

NOTE: The purpose of this bill is to require pawnbrokers to provide certain information to law-enforcement agencies. The bill provides a mechanism to provide the information through a third-party database available on the Internet.

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