

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **House Bill 4329**

BY DELEGATES COOPER, AMBLER, PACK, HARSHBARGER,

MOORE, SUMMERS, LYNCH, HOLLEN, ATKINSON AND R.

MILLER

[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; providing information through third-party database; and  
 4 specifying database 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) With regard to every pawn transaction, a pawnbroker is required to furnish appropriate  
 2 law-enforcement authorities with:

3 (1) The name and address of the pawnshop;

4 (2) The name and address of the pledgor, the pledgor’s description, and the driver’s  
 5 license number, military identification number, identification certificate number, or other official  
 6 number capable of identifying the pledgor;

7 (3) The date of the transaction;

8 (4) An identification and description of the pledged goods, including serial numbers if  
 9 reasonably available; and

10 (5) A signed document from the seller providing that the seller has the right to sell the  
 11 property.

12 (b) The pawnbroker may satisfy the requirements of subsection (a) of this section by  
 13 transmitting the information electronically to a database in accordance with this section, except  
 14 that paper copies shall be made available for an on-site inspection upon request of any  
 15 appropriate law-enforcement authority.

16 (c) As used in this section:

17 (1) “Database” means a computer database established and maintained by a third party  
 18 engaged in the business of establishing and maintaining one or more databases;

19           (2) “Permitted user” means persons authorized by law-enforcement personnel to access  
20 the database;

21           (3) “Reportable data” means the information required to be recorded by pawnbrokers for  
22 pawn transactions pursuant to subsection (a) of this section;

23           (4) “Reporting pawnbroker” means a pawnbroker who chooses to transmit reportable data  
24 electronically to the database; and

25           (5) “Search” means the accessing of a single database record.

26           (d) The database shall provide appropriate law-enforcement officials with the information  
27 contained in subsection (a) of this section and other useful information to facilitate the  
28 investigation of alleged property crimes while protecting the privacy rights of pawnbrokers and  
29 pawnshop customers with regard to their transactions.

30           (e) The database shall contain the pawn and purchase transaction information recorded  
31 by reporting pawnbrokers pursuant to this section and shall be updated as requested. The  
32 database shall also contain security features and protections necessary to ensure that the  
33 reportable data maintained in the database can only be accessed by permitted users in  
34 accordance with the provisions of this section.

35           (f) The third party’s charge for the database shall be based on the number of permitted  
36 users. Law-enforcement agencies shall be charged directly for access to the database, and the  
37 charge shall be reasonable in relation to the costs of the third party in establishing and maintaining  
38 the database. No reporting pawnbroker or customer of a reporting pawnbroker shall be charged  
39 costs for the creation or use of the database.

40           (g) The information in the database may only be accessible through the Internet to  
41 permitted users who have provided a secure identification or access code to the database and  
42 allow the permitted users to access database information from any jurisdiction transmitting the  
43 information to that database. The permitted users shall provide the database with an identifier  
44 number of a criminal action for which the identity of the pawn or purchase transaction customer

45 is needed and a representation that the information is connected to an inquiry or to the  
46 investigation of a complaint or alleged crime involving goods delivered by that customer in that  
47 transaction. The database shall record, for each search, the identity of the permitted user, the  
48 pawn or purchase transaction involved in the search, and the identity of any customer accessed  
49 through the search. Each search record shall be made available to other permitted users  
50 regardless of their jurisdiction. The database shall enable reporting pawnbrokers to transmit to  
51 the database through the Internet reportable data for each pawn and purchase transaction.

52 (h) Pawnbrokers shall meet the following requirements:

53 (1) Provide all reportable data to appropriate users by transmitting it through the internet  
54 to the database;

55 (2) Transmit all reportable data for one business day to the database prior to the end of  
56 the following business day; and

57 (3) Make available for on-site inspection to any appropriate law-enforcement official, upon  
58 request, paper copies of any pawn or purchase transaction documents.

59 (i) If a reporting pawnbroker or permitted user discovers any error in the reportable data,  
60 notice of the error shall be given to the database, which has 30 days in which to correct the error.

61 Any reporting pawnbroker experiencing a computer malfunction preventing the transmission of  
62 reportable data or receipt of search requests is allowed at least 30 but no more than 60 days to  
63 repair the malfunction, and during that period the pawnbroker is not in violation of this section if  
64 good faith efforts are made to correct the malfunction. During the periods specified in this  
65 subsection, the reporting pawnbroker and permitted user shall arrange an alternative method or  
66 methods by which the reportable data shall be made available.

67 (j) A reporting pawnbroker is not obligated to incur any cost, other than Internet service  
68 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.