

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 512**

SENATORS JEFFRIES, WELD, BOSO, AND LINDSAY,

*original sponsors*

[Originating in the Committee on the Judiciary;

Reported on February 14, 2019]



1 A BILL to amend and reenact §47-26-1, §47-26-2, and §47-26-3 of the Code of West Virginia,  
2 1931, as amended; and to amend said code by adding thereto a new section, designated  
3 §47-26-2a, all relating to the regulation of pawnbrokers; removing an exception for certain  
4 transactions from the report required of all pawnbrokers; requiring all pawnbrokers to be  
5 equipped with certain surveillance equipment and signage effective January 1, 2021;  
6 prohibiting pawnbrokers from doing business with certain persons; prohibiting  
7 pawnbrokers from purchasing certain items or transacting with certain items from anyone;  
8 creating misdemeanor offenses for certain violations; and increasing the penalties for  
9 existing criminal offenses related to pawnbrokers.

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

**ARTICLE 26. PAWNBROKERS.**

**§47-26-1. Definitions.**

1 (a) "General-use prepaid gift card" means a card, code, or other device that is issued on  
2 a prepaid basis in a specified amount which may or may not be increased or reloaded in exchange  
3 for payment and which is redeemable upon presentation at multiple unaffiliated merchants for  
4 goods or services or usable at an automated teller machine.

5 (b) "Gift certificate" means a card, code, or other device that is issued on a prepaid basis  
6 in a specific amount that may not be increased or reloaded in exchange for payment and is  
7 redeemable upon presentation to a single merchant or an affiliated group of merchants for goods  
8 or services.

9 (c) "Pawnbroker" means any person, partnership, association, or corporation or employee  
10 thereof advancing money in a pawn transaction in exchange for collateral in the property of the  
11 pledgor. Pawnbroker does not mean any bank which is regulated by the West Virginia Division of  
12 Financial Institutions; the Comptroller of the Currency of the United States; the Federal Deposit  
13 Insurance Corporation; the Board of Governors of the Federal Reserve System, or any other  
14 federal or state authority and all affiliates thereof; and any bank or savings and loan association

15 whose deposits or accounts are eligible for insurance by the Bank Insurance Fund or the Savings  
16 Association Insurance Fund or other fund administered by the Federal Deposit Insurance  
17 Corporation and all affiliates thereof, any state or federally chartered credit union, and any finance  
18 company subject to licensing and regulation by the West Virginia Division of Financial Institutions.

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

25 ~~(c)~~ (e) "Pledgor" means a person who delivers the pledge into the possession of a  
26 pawnbroker.

27 ~~(d)~~ (f) "Purchase" or "purchase transaction" means the transfer and delivering of goods by  
28 a person to a pawnbroker by acquisition for value, consignment, or trade for other goods. This  
29 definition does not include purchases by pawnbrokers of items not used or intended for resale,  
30 consignment, or trade of the item to another.

31 (g) "Store gift card" means a card, code, or other device that is issued on a prepaid basis  
32 in a specified amount, whether or not that amount may be increased or reloaded, either in  
33 exchange for payment or as a means of refunding money which is redeemable upon presentation  
34 at a single merchant or an affiliated group of merchants for goods and services.

**§47-26-2. Purchase and pawn transaction records.**

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

5 (1) The date of the transaction;

6 (2) The name of the seller;

7 (3) The name of the clerk who handled the transaction;

8 (4) The corresponding pawn ticket number;

9 (5) The terms of the loan or purchase;

10 (6) A copy of the seller's or pledgor's government photo identification and type: *Provided,*

11 That if the seller or pledgor does not have a government-issued photo identification, the

12 pawnbroker shall have a photograph of the seller or pledgor; and

13 (7) A detailed description of the property.

14 (b) For purposes of meeting the requirements of subsection (a) of this section, a detailed

15 description of the property shall include the following:

16 (1) In the case of firearms, the description shall include the brand, model, caliber, type,  
17 and serial number;

18 (2) In the case of jewelry, the type of jewelry presented, the karat weight, whether it is  
19 made of white gold, yellow gold, or other precious metals, and other description of the stones,  
20 shape, cut, and oddities, etc., which are sufficient to describe the article of jewelry; or

21 (3) In the case of other types of articles and property, the description shall include the type  
22 of article, brand, model, and serial number on the article, or any other ~~such~~ identifying information  
23 or description to which is sufficient to specifically describe the item or property.

24 (c) The seller or pledgor shall ~~be required to~~ sign the pawn transaction statement or  
25 purchase transaction statement; and a signed statement from the seller or pledgor affirming  
26 ownership shall appear on the bill of sale or pawn ticket that is completed by the seller or pledgor  
27 at the time of the transaction.

28 (d) The pawnbroker shall maintain the original of all purchase or pawn transaction  
29 statements for three years and shall make the original copies of the purchase or pawn transaction  
30 statements available for inspection by law-enforcement officers and law-enforcement agencies  
31 upon request during the posted hours of operation of the business.

32 (e) A pawnbroker shall equip each location at which it conducts pawn transactions with  
33 electronic monitoring/recording equipment that records all public and nonpublic entrances and  
34 exits to the building and all transactions being conducted. The equipment shall consist of video  
35 or digital imaging of a sufficient resolution and clarity to be easily monitored and reviewed on  
36 playback. All business locations shall keep an archive of video for 30 days. A sign of sufficient  
37 size informing a customer of a videotaping shall be located in a conspicuous place on the business  
38 premises. The requirements in this subsection are effective January 1, 2021.

39 ~~(e)~~ (f) The information required to be collected pursuant to this section is confidential, is  
40 not public record, and should only be disclosed as provided in this section or otherwise provided  
41 by law: *Provided*, That the confidential nature of this information in no way impedes the  
42 pawnbroker's duty to accurately collect and timely provide the information to law enforcement.

**§47-26-2a. Prohibitions.**

1 A pawnbroker, in the course of business, may not purchase, accept in pawn, receive in  
2 trade, or exchange for goods:

3 (1) Articles from a minor;

4 (2) Articles from a person who appears to be intoxicated or under the influence of a  
5 controlled substance at the time of the transaction;

6 (3) Articles that the pawnbroker knows, or has reason to believe, are stolen;

7 (4) A general-use prepaid gift card, store gift card, store credit, merchandise card, gift  
8 certificate, activated phone card, or similar items; or

9 (5) Property with serial numbers, personalized inscriptions or initials, or other identifying  
10 marks that the pawnbroker knows, or has reason to believe, have been intentionally altered or  
11 rendered illegible.

**§47-26-3. Penalties; pawnbroker.**

1 A pawnbroker who violates the provisions of this article is guilty of a misdemeanor and,  
2 upon conviction thereof, shall be fined not less than \$100 ~~\$250~~ and not more than ~~\$200~~ \$1,000

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- 3 for each offense. A pawnbroker convicted of a third violation of this article within a two-year period
- 4 shall be confined in jail for up to 30 days in addition to the fine assessed.