

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 314

BY SENATORS JEFFRIES, PHILLIPS, AND WELD

[Introduced February 17, 2021; referred
to the Committee on the Judiciary]

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, 2022;
 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 “General-use prepaid gift card” means a card, code, or other device that is issued on a
 2 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 “Gift certificate” means a card, code, or other device that is issued on a prepaid basis in a
 6 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 (a) “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) "Pawn transaction" means a transaction between a pawnbroker and a pledgor where
 20 the pledgor's property is placed in the possession of the pawnbroker as security for money or
 21 other valuable consideration provided to the pledgor on the condition that the pledgor may pay a
 22 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) "Pledgor" means a person who delivers the pledge into the possession of a
 26 pawnbroker.

27 (d) "Purchase" or "purchase transaction" means the transfer and delivering of goods by a
 28 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 "Store gift card" means a card, code, or other device that is issued on a prepaid basis in
 32 a specified amount, whether or not that amount may be increased or reloaded, either in exchange
 33 for payment or as a means of refunding money which is redeemable upon presentation at a single
 34 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, 2022.

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

- 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.

NOTE: The purpose of this bill is to better regulate pawnbrokers.

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