

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

Senate Bill 314

BY SENATORS JEFFRIES, PHILLIPS, WELD, AND LINDSAY

[Originating in the Committee on the Judiciary;

reported on March 8, 2021]

1 A BILL to amend and reenact §47-26-1 and §47-26-3 of the Code of West Virginia, 1931, as
2 amended; and to amend said code by adding thereto a new section, designated §47-26-
3 2a, all relating generally to the regulation of pawnbrokers; defining terms; prohibiting
4 pawnbrokers from doing business with certain persons; prohibiting pawnbrokers from
5 purchasing certain items or transacting in certain items; creating misdemeanor offenses
6 for certain acts; and increasing the penalties for existing criminal offenses related to
7 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 for 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, 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.

§47-26-2a. Prohibited acts.

1 A pawnbroker may not purchase, accept in pawn, receive in trade, or exchange for goods:

2 (1) Articles from a minor;

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

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

6 (4) General-use prepaid gift cards, store gift cards, store credit, merchandise cards, gift
7 certificates, activated phone cards, or similar items; and

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

§47-26-3. Penalties; pawnbroker.

1 (a) 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 nor more than \$200 \$1,000 for
3 each offense.

4 (b) Notwithstanding the provisions of subsection (a) of this section, any person convicted
5 of a third violation of §47-26-2 or §47-26-2a of this code where the offenses occurred within a
6 three-year period is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less
7 than \$1,000 nor more than \$3,000 or confined in jail for not more than six months or both fined
8 and confined.