

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 5352**

By Delegates Cooper and Heckert

[Introduced January 30, 2024; Referred to the  
Committee on Government Organization then the  
Judiciary]

1 A BILL to amend and reenact §47-26-1, §47-26-2, §47-26-3, and §47-26-4 of the Code of West  
 2 Virginia, 1931, as amended; and to amend said code by adding thereto a new section,  
 3 designated §47-26-5, all relating to pawnbrokers, definitions; requiring a photograph;  
 4 increasing amount of fines for violations; reporting requirements to local law-enforcement  
 5 officials; and requiring pawnbrokers to retain the property in its original condition as  
 6 delivered to the pawnbroker by the seller or pledgor for a minimum period of five business  
 7 days before altering, disassembling, reselling, destroying, reducing, smelting, or otherwise  
 8 disposing of the property

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

**ARTICLE 26. PAWNBROKERS.**

**§47-26-1. Definitions.**

1 (a) "Pawnbroker" means any person, partnership, association or corporation or employee  
 2 thereof advancing money in a pawn transaction in exchange for collateral in the property of the  
 3 pledgor. A pawnbroker is also a person or other entity who is in the business of purchasing articles  
 4 made of or containing substantial amounts of gold, silver, platinum or other precious metals or  
 5 jewels of any description for the purposes of altering, disassembling, reselling, destroying,  
 6 reducing, smelting, or otherwise disposing of the property into any form different from the original  
 7 condition as delivered to the pawnbroker by the seller or pledgor accepts title in a purchase  
 8 transaction thereof for reselling or marketing the product or portions thereof. Pawnbroker does not  
 9 mean any bank which is regulated by the West Virginia Division of Financial Institutions; the  
 10 Comptroller of the Currency of the United States; the Federal Deposit Insurance Corporation; the  
 11 Board of Governors of the Federal Reserve System or any other federal or state authority; and all  
 12 affiliates thereof and any bank or savings and loan association whose deposits or accounts are  
 13 eligible for insurance by the Bank Insurance Fund or the Savings Association Insurance Fund or  
 14 other fund administered by the Federal Deposit Insurance Corporation all affiliates thereof, any  
 15 state or federally chartered credit union, and any finance company subject to licensing and

16 regulation by the West Virginia Division of Financial Institutions.

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

23 ~~(c)~~ "Pledgor" means a person who delivers the pledge into the possession of a  
24 pawnbroker.

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

**§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 pledger's government photo identification and type; *Provided,*  
11 That if the seller or pledger does not have a government issued photo identification, the  
12 pawnbroker shall have a photograph of the seller or pledger; and

13 (7) A detailed description and photograph 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, and  
17 serial number;

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

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 pledger shall be required to sign the pawn transaction statement or  
25 purchase transaction statement; and a signed statement from the seller or pledger affirming  
26 ownership shall appear on the bill of sale or pawn ticket that is completed by the seller or pledger at  
27 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) The information required to be collected pursuant to this section is confidential, is not  
33 public record, and should only be disclosed as provided in this section or otherwise provided by  
34 law: *Provided*, That the confidential nature of this information in no way impedes the pawnbroker's  
35 duty to accurately collect and timely provide the information to law enforcement.

**§47-26-3. Penalties; pawnbroker.**

1 A pawnbroker who violates the provisions of this article is guilty of a misdemeanor, and  
2 shall be fined not less than ~~\$400~~ \$200 and not more than ~~\$200~~ \$500 for each offense.

**§47-26-4. County and municipal regulation of pawnbrokers.**

1           This article may not be construed to prohibit or otherwise limit any county or municipality of  
2 this state from adopting an ordinance, to the extent that the ordinance does not conflict or create  
3 lesser requirements than this article or any other provision of this code, establishing additional  
4 requirements of pawnbrokers within its jurisdiction. Pawnbrokers located in a county or  
5 municipality, in which an ordinance establishes reporting requirements to local law-enforcement  
6 officials are not required to provide duplicate information to other law-enforcement officials  
7 pursuant to section three of this article unless requested by other law-enforcement officials.

**§47-26-5. Property to be retained after title transfer; Alterations and disposal of property.**

1           All pawnbrokers accepting title to property shall retain the property in its original condition  
2 as delivered to the pawnbroker by the seller or pledgor for a minimum period of 5 business days  
3 before altering, disassembling, reselling, destroying, reducing, smelting, or otherwise disposing of  
4 said property. The minimum period shall begin upon accepting clear title to the property through a  
5 purchase transaction or pawn transaction. Pawnbrokers shall make the property available for  
6 inspection by law-enforcement officers and law-enforcement agencies upon request during the  
7 posted hours of operation of the business.

NOTE: The purpose of this bill is to pawnbrokers, definitions; requiring a photograph; increasing amount of fines for violations; reporting requirements to local law-enforcement officials; and requiring pawnbrokers to retain the property in its original condition as delivered to the pawnbroker by the seller or pledgor for a minimum period of five business days before altering, disassembling, reselling, destroying, reducing, smelting, or otherwise disposing of the property.

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