ENROLLED SENATE
BILL NO. 514 BY: BROWN of the SENATE

and

BASTIN of the HOUSE

AN ACT RELATING TO PAWNBROKERS; AMENDING 22 O.S. 1991, SECTIONS 1321, AS AMENDED BY SECTION 1 OF ENROLLED HOUSE BILL NO. 1797 OF THE 2ND SESSION OF THE 43RD OKLAHOMA LEGISLATURE, AND 1327, AND 59 O.S. 1991, SECTIONS 1508, 1511, 1512 AND 1515, WHICH RELATE TO RETURN OF STOLEN PROPERTY, DISPOSITION OF EXHIBITS, EXAMINATION OF PAWNBROKER RECORDS, LIMITATION ON AGREEMENTS, ENFORCEMENT PROVISIONS, AND REPORTS OF BUY OR PAWN TRANSACTIONS; REQUIRING PEACE OFFICER TO MAKE GOOD FAITH EFFORT TO LOCATE AND NOTIFY OWNER OF STOLEN PROPERTY; AUTHORIZING CERTAIN RELEASE OF PROPERTY; DIRECTING CERTAIN RELEASE OF EXHIBITS; AUTHORIZING A WRITTEN HOLD ORDER ON CERTAIN PROPERTY IN THE POSSESSION OF A PAWNBROKER; STATING TERMS AND CONTENTS OF HOLD ORDER; DIRECTING PAWNBROKER TO HOLD CERTAIN PROPERTY; AUTHORIZING CERTAIN RELEASE OF HOLD ORDER AND PROPERTY; REQUIRING THE DISTRICT ATTORNEY'S OFFICE TO PROVIDE CERTAIN NOTICES; STATING PENALTY FOR NONCOMPLIANCE OF PAWNBROKER; MAKING CUSTOMER LIABLE TO REPAY PAWNBROKER FULL AMOUNT RECEIVED FROM PAWN OR BUY TRANSACTION; PROVIDING PENALTY FOR FAILURE TO REPAY PAWNBROKER; EXPANDING REQUIREMENTS FOR CERTAIN REPORTS; MODIFYING STATUTORY REFERENCE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 22 O.S. 1991, Section 1321, as amended by Section 1 of Enrolled House Bill No. 1797 of the 2nd Session of the 43rd Oklahoma Legislature, is amended to read as follows:

Section 1321. A. It is the intent of the Legislature that any stolen or embezzled money or property held in custody of a municipality, county or the state in any criminal action or proceeding be returned to its lawful owner without unnecessary delay.

B. If the property coming into the custody of a municipal, county or state peace officer is not alleged to have been stolen or embezzled, the peace officer may return such property to the owner upon satisfactory proof of ownership. The notice and hearing provisions of this section shall not be required for return of the property specified in this section if there is no dispute concerning the ownership of such property, except that within fifteen (15) days of the time the owner of such property is known, the peace officer

shall notify the owner of such property that the property is in the custody of the peace officer. The property shall be returned to the owner upon request.

C. When property alleged to have been stolen or embezzled, comes into the custody of a peace officer, he shall hold it subject to the order of the magistrate authorized by Section 1322 of this title to direct the disposal thereof. Within fifteen (15) days of the time the owner of such property is known, the peace officer shall notify the owner of such property that the property is in the custody of the peace officer. The peace officer shall make a good faith effort to locate and notify the owner of the property. If the peace officer has made a good faith effort to locate and notify the owner of such property and has been unable to locate or notify such owner, he shall release the property to the last person in possession of such property within fifteen (15) days after he determines that an owner cannot be located or notified, provided that the person who last had possession of the property shows proof that he is a lawful possessor of the property. Such officer may provide a copy of a nonownership affidavit to the defendant to sign if such defendant is not claiming ownership of the money or property taken from the defendant and if such defendant has relinquished his right to remain silent. Such affidavit is not admissible in any proceeding to ascertain the guilt or innocence of the defendant. A copy of this affidavit shall be provided to the defendant and a copy shall be filed by the officer with the court clerk. Upon request, a copy of this affidavit shall be provided to any person claiming ownership of such money or property. The owner of the property or designated representative of the owner may make application to the magistrate for the return of the property. The application shall be on a form provided by the Administrative Director of the Courts and made available through the court clerk or the victim-witness coordinator. The court may charge the applicant a reasonable fee to defray the cost of filing and docketing the application. Once application has been made and notice provided, the magistrate shall docket said application for a hearing as provided in this section. Where notice by publication is appropriate, the publication notice form shall be provided free of charge to the applicant by the Administrative Director of the Courts through the court clerk or the victim-witness coordinator with instructions on how to obtain effective publication notice. The applicant shall notify the last person in possession of such property prior to such property being seized by the state of the hearing by mailing a copy of the notice by certified mail return receipt requested at the last-known address of such person, unless such person has signed a nonownership affidavit pursuant to this section disclaiming any ownership rights to such property. If the last person in possession of the property is unable to be served notice by said certified mail, notice shall be provided by one publication in a newspaper of general circulation in the county where the property is held in custody. The applicant shall notify the district attorney and the court when notice has been served to the last person in possession of such property or published pursuant to this section. The hearing shall be held not less than ten (10) days or more than twenty (20) days after the court has been notified that the notice has been served or published. For the sole purpose of conducting a due process hearing to establish ownership of such property, "magistrate" as used in this section shall mean a judge of the district court, associate district judge, special judge or the judge of a municipal criminal court of record when established pursuant to Section 28-101 et seq. of Title 11 of the Oklahoma Statutes.

D. If the magistrate determines that the property is needed as evidence the magistrate shall determine ownership and determine the procedure and time frame for future release. The magistrate may order the release of property needed as evidence pursuant to Section 1327 of this title, provided however, the order may require the owner to present such property at trial. The property shall be made available to the owner within ten (10) days of the court order for release. The magistrate may authorize ten (10) days additional time for the return of such exhibit if the district attorney shows cause that additional time is needed to photograph or mark such exhibit.

E. If the property is not needed as evidence, it may be released by the magistrate to the owner or designated representative of the owner upon satisfactory proof of ownership. The owner of the property or designated representative of the owner may make application to the magistrate for the return of the property. The applicant shall notify the last person in possession of such property prior to such property being seized by the state of the hearing by mailing a copy of the notice by certified mail return receipt requested at the last-known address of such person, unless such person has signed a nonownership affidavit pursuant to this section disclaiming any ownership rights to such property. If the last person in possession of the property is unable to be served notice by said certified mail, notice shall be provided by one publication in a newspaper of general circulation in the county where the property is held in custody. The applicant shall notify the district attorney and the court when notice has been served to the last person in possession of such property or published pursuant to this section. The hearing shall be held not less than ten (10) days or more than twenty (20) days after the court has been notified that the notice has been served or published.

F. The notice and hearing provisions of subsections C and E of this section shall not be required for return of the property specified in said subsections if there is no dispute concerning the ownership of the property and the property is readily identifiable by the owner. The owner shall provide satisfactory proof of title to the property or sign an affidavit of ownership to be provided by the peace officer. The affidavit is not admissible in any proceeding to ascertain the guilt or innocence of the defendant. A copy of this affidavit shall be filed by the officer with the court clerk. The property shall then be returned to the owner.

G. When property alleged to have been stolen comes into the custody of a peace officer and such property is deemed to be perishable said peace officer shall take such action as he deems appropriate to temporarily preserve the property. Provided, however, within seventy-two (72) hours of the time the property was recovered, the receiving agency shall make application for a disposition hearing before a magistrate and the receiving agency shall notify all persons known to have an interest in the property of the date, time and place of such hearing.

H. In any case, the magistrate may, for good cause shown, order any evidence or exhibit to be retained pending the outcome of any appeal.

SECTION 2. AMENDATORY 22 O.S. 1991, Section 1327, is amended to read as follows:

Section 1327. A. All exhibits which have been introduced, filed, or held in custody of the state in any criminal action or proceeding may be disposed of as provided for in this section.

B. The court may, on application of the party entitled thereto, or an agent designated in writing by the owner, order all such exhibits, other than documentary exhibits, as may be released from

the custody of the court or the state, without prejudice to the state, delivered to such party at any time after the final determination of the action or proceedings; provided, however, where the action or proceeding has resulted in an order granting probation, such delivery may be made any time after the final determination of an appeal of such order, or after the time for such appeal has elapsed. Provided, further, if the owner of such exhibit is the victim of the offense for which such exhibit is held, said owner may make application to the court at any time prior to the final disposition of the action or proceeding for the return of the exhibit. The applicant shall notify the last person in possession of such exhibit prior to such exhibit being seized by the state of the hearing by mailing a copy of the notice by certified mail return receipt requested at the last-known address of such person, unless such person has signed a nonownership affidavit pursuant to Section ~~1~~ 1321 of this ~~act~~ title disclaiming any ownership rights to such exhibit. If the last person in possession of the property is unable to be served notice by said certified mail, notice shall be provided by one publication in a newspaper of general circulation in the county where the property is held in custody. The applicant shall notify the district attorney and the court when notice has been served to the last person in possession of such property or published pursuant to this section. The hearing shall be held not less than ten (10) days or more than twenty (20) days after the court has been notified that the notice has been served or published. In the event the court orders the release of said exhibit to the owner, the district attorney shall photograph or mark said exhibit with an identification number and return the exhibit to the owner within ten (10) days of the court order. The court may authorize ten (10) days additional time for the return of such exhibit if the district attorney shows cause that additional time is needed to photograph or mark such exhibit. Such photograph or marked exhibit may be presented as the exhibit in any further action or proceeding. If the party entitled to such exhibits is unknown, or fails to apply for the return of such exhibits, the procedure for their disposition shall be as follows:

1. After the expiration of six (6) months from the time the conviction becomes final, or if the action or proceeding has not resulted in a conviction, at any time after the judgment has become final, the court in which the case was tried shall make an order specifying what exhibits may be released from the custody of the court without prejudice to the state. Upon receipt of such an order, the property shall be transferred to the county sheriff or other proper governmental agency for sale to the public. At least ten (10) days prior to such sale, notice of the sale shall be sent by certified mail return receipt requested to the last person in possession of such exhibit prior to such exhibit being seized by the state at the last-known address of such person. Upon satisfactory proof being provided to the county sheriff or other proper governmental agency holding the transferred exhibit that the last person in possession of such exhibit was a lawful possessor, the exhibit shall be released to the last person in possession of such exhibit;

2. At any time prior to the time fixed for the transfer, the owner or any person entitled to the possession of any of such exhibits may obtain from the court an order returning them to him;

3. Articles not returned to their owners or to persons entitled to their possession at or prior to the time set for the transfer shall be sold by the proper receiving agency for cash. The articles shall be sold singly or in combinations. The money received from

such sales shall be placed in the appropriate fund of the governmental agency responsible for the sale;

4. Where the exhibit consists of money or currency and is unclaimed at the time of the transfer, it shall not be transferred but shall be immediately deposited in the appropriate fund of the governmental agency in possession of such property; and

5. If any property is transferred to the county sheriff or other governmental agency pursuant to this section it may be sold in the manner provided by law for the sale of surplus personal property. If the county sheriff or other proper governmental agency determines that any such property transferred to it for sale is needed for a public use, such property may be retained by the agency and need not be sold.

C. The court may, on application of the party entitled thereto, or an agent designated in writing by the owner, order such documentary exhibits as may be released from the custody of the court without prejudice to the state delivered to such party any time after the final determination of the action or proceeding; provided, however, where the action or proceeding has resulted in an order granting probation, such delivery may be made any time after the final determination of an appeal of such order, or after the time for such appeal has elapsed. Provided, further, if the owner of such exhibit is the victim of the offense for which such exhibit is held, said owner may make application to the court at any time prior to the final disposition of the action or proceeding for the return of the exhibit. The applicant shall notify the last person in possession of such exhibit prior to such exhibit being seized by the state of the hearing by mailing a copy of the notice by certified mail return receipt requested at the last-known address of such person, unless such person has signed a nonownership affidavit pursuant to Section ~~1~~ 1321 of this ~~act~~ title disclaiming any ownership rights to such exhibit. If the last person in possession of the property is unable to be served notice by said certified mail, notice shall be provided by one publication in a newspaper of general circulation in the county where the property is held in custody. The applicant shall notify the district attorney and the court when notice has been served to the last person in possession of such property or published pursuant to this section. The hearing shall be held not less than ten (10) days or more than twenty (20) days after the court has been notified that the notice has been served or published. In the event the court orders the release of said exhibit to the owner, the district attorney shall photograph or mark said exhibit with an identification number and return the exhibit to the owner within ten (10) days of the court order. The court may authorize ten (10) days additional time for the return of such exhibit if the district attorney shows cause that additional time is needed to photograph or mark such exhibit. Such photograph or marked exhibit may be presented as the exhibit in any further action or proceeding. If the party entitled to such documentary exhibits is unknown, or fails to apply for the return of said exhibits, the procedure for their disposition shall be as follows:

1. After the expiration of six (6) months from the time the conviction becomes final, or if the action or proceeding has not resulted in a conviction, at any time after the judgment has become final, the court in which the case was tried shall make an order requiring such exhibits to be destroyed; provided, that no such order shall be made authorizing the destruction of any documentary exhibit if the destruction of such exhibit would prejudice the state;

2. No exhibit shall be destroyed or otherwise disposed of until sixty (60) days after the clerk of the court has posted a notice conspicuously in three public places in the county, referring to the order for the disposition, describing briefly the exhibit, and indicating the date after which the exhibit will be destroyed or otherwise disposed of.

D. The provisions of subsection B of this section shall not apply to any dangerous or deadly weapons, narcotic or poisonous drugs, explosives, or any property of any kind or character whatsoever the possession of which is prohibited by law. Any such property filed as an exhibit or held by the state shall be, by order of the trial court, destroyed or sold or otherwise disposed of under the conditions prescribed in such order. This act shall not be interpreted to authorize the return of any property, the possession of which is prohibited by law.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 1508, is amended to read as follows:

Section 1508. A. At such times as the Administrator may deem necessary, the Administrator or his duly authorized representative may make an examination of the place of business of each licensee and may inquire into and examine the transactions, books, accounts, papers, correspondence and records of such licensee insofar as they pertain to the business regulated by Section 1501 et seq. of this ~~act~~ title. Such books, accounts, papers, correspondence, records and property taken, purchased or received shall also be open for inspection at any reasonable time to federal law enforcement officials and the chief of police, district attorney, sheriff or written designee of the law enforcement body in whose jurisdiction the pawnshop is located, without any need of judicial writ or other process. In the course of an examination, the Administrator or his duly authorized representative or any authorized peace officer shall have free access to the office, place of business, files, safes and vaults of such licensee, and shall have the right to make copies of any books, accounts, papers, correspondence and records insofar as they pertain to the business regulated by Section 1501 et seq. of this title. The Administrator or his duly authorized representative may, during the course of such examination, administer oaths and examine any person under oath upon any subject pertinent to any matter about which the Administrator is authorized or required by this act to consider, investigate or secure information. Any licensee who fails or refuses to permit the Administrator or his duly authorized representative or any authorized peace officer to examine or make copies of such books or other relevant documents shall thereby be deemed in violation of this act and such failure or refusal shall constitute grounds for the suspension or revocation of such license. The information obtained in the course of any examination or inspection shall be confidential, except in civil or administrative proceedings conducted by the Administrator, or criminal proceedings instituted by the state. Each licensee shall pay to the Administrator an amount assessed by the Administrator to cover the direct or indirect cost of such examination, not to exceed Two Hundred Dollars ($200.00) in any calendar year.

B. Whenever a peace officer has probable cause to believe that property in possession of a licensed pawnbroker is stolen or embezzled, the peace officer of the local law enforcement agency of the municipality or other political subdivision in which the pawnshop resides may place a written hold order on the property. The initial term of the written hold order shall not exceed thirty (30) days. However, the holding period may be extended in successive thirty (30) day increments upon written notification

prior to the expiration of the initial holding period. If the holding period has expired and has not been extended, the hold order shall be considered expired and no longer in effect, and title shall vest in the pawnbroker subject to any restrictions contained in the pawn contract. The initial written hold order shall contain the following information:

1. Signature of the pawnbroker or his designee;

2. Name, title and identification number of the peace officer placing the hold order;

3. Name and address of the agency to which the peace officer is attached and the offense number;

4. Complete description of the property to be held, including model number, serial number and transaction number;

5. Name of agency reporting the property to be stolen or embezzled;

6. Mailing address of the pawnshop where the property is held;

7. Expiration date of the holding period.

C. While a hold order is in effect, the pawnbroker may consent to release, upon written receipt, the stolen or embezzled property to the custody of the local law enforcement agency to which the peace officer placing the hold order is attached. The consent to release the stolen or embezzled property to the custody of law enforcement is not a waiver or release of the pawnbroker's property rights or interest in the property. Otherwise, the pawnbroker shall not release or dispose of the property except pursuant to a court order or the expiration of the holding period including all extensions. The district attorney's office shall notify the pawnbroker in writing in cases where criminal charges have been filed that the property may be needed as evidence. The notice shall contain the case number, the style of the case, and a description of the property. The pawnbroker shall hold such property until receiving notice of the disposition of the case from the district attorney's office. The district attorney's office shall notify the pawnbroker in writing within fifteen (15) days of the disposition of the case. Willful noncompliance of a pawnbroker to a written hold order shall be cause for the pawnbroker's license to either be suspended or revoked pursuant to paragraph 2 of subsection A of Section 1507 of this title. A hold order may be released prior to the expiration of any thirty-day holding period by written release from the agency placing the initial hold order.

D. For the purpose of discovering violations of this act or of securing information required hereunder, the Administrator or his duly authorized representative may investigate the books, accounts, papers, correspondence and records of any licensee or other person who the Administrator has reasonable cause to believe is violating any provision of this act whether or not such person shall claim to be within the authority or scope of this act. For the purpose of this section, any person who advertises for, solicits or holds himself out as willing to make pawn transactions, shall be presumed to be a pawnbroker.

~~C.~~ E. Each licensee shall keep or make available in this state such books and records relating to pawn transactions made under this act as are necessary to enable the Administrator to determine whether the licensee is complying with this act. Such books and records shall be consistent with accepted accounting practices.

~~D.~~ F. Each licensee shall preserve or make available such books and records in this state relating to each of its pawn transactions for four (4) years from the date of the transaction, or two (2) years from the date of the final entry made thereon, whichever is later. Each licensee's system of records shall be accepted if it

discloses such information as may be reasonably required under this act. All agreements signed by customers shall be kept at an office in this state designated by the licensee, except when transferred under an agreement which gives the Administrator access thereto. All credit sales made by a pawnbroker, other than those sales defined in paragraph 6 of Section 1502 of this title, as a pawn transaction, shall be made in accordance with and subject to the provisions of Title 14A of the Oklahoma Statutes.

~~E.~~ G. Each licensee shall, annually on or before the first day of May or other date thereafter fixed by the Administrator, file a report with the Administrator setting forth such relevant information as the Administrator may reasonably require concerning the business and operations during the preceding calendar year for each licensed place of business conducted by such licensee within the state. Such report shall be made under oath and shall be in the form prescribed by the Administrator, who may make and publish annually a consolidated analysis and recapitulation of such reports, but the individual reports shall be held confidential.

~~F.~~ H. The Administrator may make regulations necessary for the enforcement of this act and consistent with all its provisions. Before making such a regulation relating to the licensees subject to this act, the Administrator shall give each licensee at least thirty (30) days' written notice of a public hearing, stating the time and place thereof and the terms or substance of the proposed regulation. At the hearing, any licensee or other person may be heard and may introduce evidence, data or arguments or place the same on file. The Administrator, after consideration of all relevant matters presented, shall adopt and promulgate every regulation in written form, stating the date of adoption and date of promulgation. Each such regulation shall be entered in a permanent record book which shall be public record and be kept in the Administrator's office. A copy of every regulation shall be mailed to each licensee, and no such regulation shall become effective until the expiration of at least twenty (20) days after such mailing. On the application of any person and payment of the cost thereof, the Administrator shall furnish such person a certified copy of such regulation.

~~G.~~ I. Except as otherwise expressly provided in this act the Administrative Procedures Act, Section 251 et seq. and 301 et seq. of Title 75 of the Oklahoma Statutes, applies to and governs all administrative actions and civil proceedings taken by the Administrator pursuant to this act.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 1511, is amended to read as follows:

Section 1511. A. Multiple Agreements. No pawnbroker shall separate or divide a pawn transaction into two or more transactions for the purpose or with the effect of obtaining a total pawn finance charge in excess of that authorized for an amount equal to the total of the amounts financed in the resulting transactions.

B. Customer's Personal Liabilities Prohibited. Even though a pawn transaction subject to Section 1501 et seq. of this ~~act~~ title creates a debtor-creditor relationship, no pawnbroker shall make any agreement requiring the personal liability of a customer in connection with a pawn transaction, and no customer shall have an obligation to redeem pledged goods or make any payment on a pawn transaction. The only recourse of a pawnbroker where the customer has pledged goods shall be to the pledged goods themselves~~. Unless~~, unless the pledged goods are found to be stolen, embezzled, mortgaged or otherwise pledged or encumbered~~, any~~. Upon the customer being officially notified by a peace officer that the goods he pledged or sold to a pawnbroker were stolen or embezzled, the

customer shall be liable to repay the pawnbroker the full amount the customer received from the pawn or buy transaction. Any pledged goods not redeemed within thirty (30) days following the last fixed maturity date may thereafter, at the option of the pawnbroker, be forfeited and become the property of the pawnbroker.

C. Prohibited Practices. A pawnbroker shall not:

1. Accept a pledge or purchase property from a person, male or female, under the age of eighteen (18) years;

2. Accept any waiver, in writing or otherwise, of any right or protection accorded a customer under this act;

3. Fail to exercise reasonable care to protect pledged goods from loss or damage;

4. Fail to return pledged goods to a customer upon payment of the full amount due the pawnbroker on the pawn transaction, unless a hold order has been placed on the pledged goods by an authorized peace officer or the pledged goods are in the custody of law enforcement;

5. Make any charge for insurance in connection with a pawn transaction;

6. Enter any pawn transaction which has a maturity date more than one (1) month after the date of the transaction; or

7. Accept collateral or buy merchandise from a person unable to supply verification of identity by photo I.D. by either a state-issued identification card, driver's license or federal government-issued identification card or by readable fingerprint of right or left index finger on the back of the pawn or buy transaction copy to be retained for the pawnbroker's record.

D. Presumption. Except as otherwise provided by this act, any person properly identifying himself as the original customer in the pawn transaction or as the assignee thereof, and presenting a pawn transaction agreement to the pawnbroker shall be presumed to be entitled to redeem the pledged goods described therein.

E. Lost or Destroyed Transaction Agreement. If the pawn transaction agreement is lost, destroyed or stolen, the customer may so notify the pawnbroker in writing, and receipt of such notice shall invalidate such pawn transaction agreement, if the pledged goods have not previously been redeemed. Before delivering the pledged goods or issuing a new pawn transaction agreement, the pawnbroker may require the customer to make affidavit of the loss, destruction or theft of the agreement.

SECTION 5. AMENDATORY 59 O.S. 1991, Section 1512, is amended to read as follows:

Section 1512. A. Rule Making Power. The Administrator shall have the same authority to adopt, amend and repeal rules as is conferred upon him by paragraph (e) of subsection (1), and subsections (2) and (3) of Section 6-104 ~~(1) (e), (2) and (3)~~ of Title 14A of the Oklahoma Statutes, as applicable, and such rules shall have the same effect as provided in subsection (4) of Section 6-104 ~~(4)~~ thereunder. In addition, the Administrator may adopt, amend and repeal such other rules as are necessary for the enforcement of the provisions of Section 1501 et seq. of this ~~act~~ title and consistent with all its provisions.

B. Administrative Enforcement. Compliance with the provisions of this act may be enforced by the Administrator who may exercise, for such purpose, all the powers enumerated in Part 1 of Article 6, Title 14A of the Oklahoma Statutes, in the same manner as in relation to consumer credit transactions under that act, as well as those powers conferred in this act.

C. Criminal Penalties. 1. Any person who engages in the business of operating a pawn shop without first securing the license

prescribed by this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not in excess of One Thousand Dollars ($1,000.00), by confinement in the county jail for not more than six (6) months or by both.

2. Any person selling or pledging property to a pawnbroker who uses false or altered identification or a false declaration of ownership as related to the provisions of Section ~~10~~ 1515 of this ~~act~~ title shall be guilty of a felony and upon conviction shall be punished by imprisonment in the State Penitentiary not to exceed five (5) years or in the county jail not to exceed one (1) year, or by a fine not to exceed Five Hundred Dollars ($500.00), or by both such imprisonment and fine.

3. Any person who fails to repay a pawnbroker the full amount received from a pawn or buy transaction after being officially notified by a peace officer that the goods he pledged or sold in that transaction were stolen or embezzled shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail for a term not to exceed six (6) months, or a fine not to exceed Five Hundred Dollars ($500.00), or by both such fine and imprisonment.

D. Private Enforcement. 1. If any person engages in the business of operating a pawnshop without first securing the license prescribed by this act, or if any pawnbroker contracts for, charges or receives a pawn finance charge in excess of that authorized by this act, the pawn transaction shall be void and the customer is not obligated to pay either the amount financed or the pawn finance charge in connection with the transaction, and upon the customer's demand, the pawnbroker shall be obligated to return to the customer, as a refund, all amounts paid in connection with the transaction by the customer and the pledged goods delivered to the pawnbroker in connection with the pawn transaction or their value if the goods cannot be returned. If a customer is entitled to a refund under this section and a pawnbroker liable to the customer refuses to make the refund within a reasonable time after demand, the customer shall have an action against the pawnbroker and in the case of a successful action to enforce such liability, the costs of the action together with attorney's fees as determined by the court shall be awarded to the customer.

2. A pawnbroker who fails to disclose information to a customer entitled to the information under this act is liable to that person in an amount equal to the sum of:

a. twice the amount of the pawn finance charge in connection with the transaction, or One Hundred Dollars ($100.00), whichever is greater; and

b. in the case of a successful action to enforce the liability under paragraph 1 of this subsection, the costs of the action together with reasonable attorneys' fees as determined by the court.

SECTION 6. AMENDATORY 59 O.S. 1991, Section 1515, is amended to read as follows:

Section 1515. A. Any pawnbroker shall make available a copy or report within three (3) days of any buy transaction to the local law enforcement agency of the municipality or other political subdivision in which the pawnshop is located; provided, merchandise bought on invoice from a manufacturer or wholesaler with an established place of business is exempt from this reporting requirement. However, such invoice shall be shown upon request to the Administrator or his duly authorized representative or any authorized peace officer. The copy or report shall include:

1. The name and address of the pawnshop;

2. The name, address, race, sex, weight, height, date of birth and either identification number of the seller as verified by either a state-issued identification card, driver's license or federal government-issued identification card or by readable fingerprint of right or left index finger on the back of the pawn or buy transaction copy to be retained for the pawnbroker's record;

3. The buy transaction number;

4. The date and time of the transaction;

5. The manufacturer of the item;

6. A description of the item; and

7. The serial number and model number where available and any other identifying markings.

B. Items bought, except on invoice from a manufacturer or wholesaler with an established place of business, shall be held for ten (10) days before being disposed of or sold.

C. Any pawnbroker shall make available a copy or report within three (3) days of any pawn transaction to the local law enforcement agency of the municipality or other political subdivision in which the pawnshop is located. The copy or report shall include:

1. The name and address of the pawnshop;

2. The name, address, race, sex, weight, height, date of birth and either identification number of the person making the pawn transaction with the pawnshop as verified by either a state-issued identification card, driver's license or federal government-issued identification card or by readable fingerprint of right or left index finger on the back of the pawn or buy transaction copy to be retained for the pawnbroker's record;

3. The pawn transaction number;

4. The date and time of the transaction;

5. The manufacturer of the item;

6. A description of the item; and

7. The serial number and model number where available and any other identifying markings.

D. The pawnbroker shall obtain a written declaration of ownership from the seller or pledgor on all buy and pawn transactions, except refinance pawn transactions or merchandise bought from a manufacturer or wholesaler with an established place of business. The seller or pledgor shall be required to state how long he has owned the property described in the transaction. The declaration of ownership shall appear on the bill of sale or pawn ticket, to be completed by the seller or the pledgor at the time of the transaction.

SECTION 7. This act shall become effective September 1, 1992.

Passed the Senate the 12th day of May, 1992.

President of the Senate

Passed the House of Representatives the 19th day of May, 1992.

Speaker of the House of

Representatives