

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 565

BY: HOOPER

AS INTRODUCED

AN ACT RELATING TO PROFESSIONS AND OCCUPATIONS;

AMENDING 59 O.S. 1981, SECTIONS 1502, SECTION 7,
CHAPTER 191, O.S.L. 1988 AND SECTION 10, CHAPTER
191, O.S.L. 1988, AS AMENDED BY SECTION 2, CHAPTER
217, O.S.L. 1989 (59 O.S. SUPP. 1990, SECTIONS
1503A AND 1515), WHICH RELATE TO PAWNBROKERS;
MODIFYING DEFINITION; DEFINING TERMS; MODIFYING
ELIGIBILITY REQUIREMENTS FOR PAWNBROKER'S LICENSE;
REQUIRING PAWNBROKER TO GIVE CERTAIN COPY OR REPORT
TO CERTAIN LAW ENFORCEMENT AGENCY; REQUIRING
PAWNBROKER TO COMPLETE CERTAIN CONTINUING
EDUCATION; REQUIRING ADMINISTRATOR OF CONSUMER
CREDIT TO APPROVE COURSES AND PROVIDERS OF
CONTINUING EDUCATION; PROVIDING FOR ADMINISTRATIVE
FINE AND PENALTIES; REQUIRING ADMINISTRATOR TO
PROMULGATE CERTAIN RULES AND REGULATIONS; PROVIDING
FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 59 O.S. 1981, Section 1502, is
amended to read as follows:

Section 1502. As used in this act:

1. "Administrator" means the Administrator of Consumer ~~Affairs~~ Credit defined in the Uniform Consumer Credit Code, Section 1-101 et seq. of Title 14A of the Oklahoma Statutes.

2. "Month" means that period of time from one date in a calendar month to the corresponding date in the following calendar month, but if there is no such corresponding date, then the last day of such following month, and when computations are made for a fraction of a month, a day shall be one-thirtieth (1/30) of a month.

3. "Pawnbroker" means a person engaged in the business of making pawn transactions.

4. "Pawn finance charge" means the sum of all charges, payable directly or indirectly by the customer and imposed directly or indirectly by the pawnbroker as an incident to the pawn transaction.

5. "Pawnshop" means the location at which or premises in which a pawnbroker regularly conducts business.

6. "Pawn transaction" means the act of lending money on the security of pledged goods or the act of purchasing tangible personal property on condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

7. "Person" means an individual, partnership, corporation, joint venture, trust, association or any other legal entity however organized.

8. "Pledged goods" means tangible personal property, which shall include, but not be limited to, motor vehicles, boats, planes or any other recreational powered or unpowered vehicles, other than choses in action, securities or printed evidences of indebtedness, which property is deposited with or otherwise actually delivered into the possession of a pawnbroker in the course of his business in connection with a pawn transaction.

9. "Net assets" means the retail or book value of the current assets of a person or pawnbroker less his applicable liabilities as

defined herein. "Current assets" shall include the investment made in cash, bank deposits, merchandise inventory and loans due from customers, excluding the pawn service charge. "Current assets" shall not include the investment made in fixed assets of real estate, furniture, fixtures or equipment, investments made in stocks, bonds or other securities or investments made in prepaid expenses or other general intangible property. "Applicable liabilities" shall include trade or other accounts payable, accrued sales, income or other taxes, accrued expenses and notes or other amounts payable that are unsecured or secured in whole or in part by current assets. Net assets shall be represented by a capital investment unencumbered by any liens or other encumbrances to be subject to the claims of general creditors. If the pawnshop is a corporation, the capital investment shall consist of common or preferred shares and capital or earned surplus. If the pawnshop is any other form of business entity, the capital investment shall consist of a substantial equivalent to that of a corporation and as determined by generally accepted accounting principles.

10. "Clock hour" shall consist of at least a fifty-minute classroom instruction session or comparable length instruction videotape.

11. "Licensee" shall mean a person or corporation licensed to operate as a pawnbroker by the Department of Consumer Credit.

12. "Continuing education" shall mean the annual formal instruction having to do with the normal operations for which a pawnbroker is licensed.

SECTION 2. AMENDATORY Section 7, Chapter 191, O.S.L. 1988 (59 O.S. Supp. 1990, Section 1503A), is amended to read as follows:

Section 1503A. A. To be eligible for a pawnshop license, an applicant shall:

1. Be of good moral character;

2. Have net assets of at least ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Seventy-five Thousand Dollars (\$75,000.00) readily available for use in conducting the business of the pawnshop; and

3. Show that the pawnshop will be operated lawfully and fairly within the purpose of the Oklahoma Pawnshop Act, Section 1501 et seq. of ~~Title 59 of the Oklahoma Statutes~~ this title.

B. The Administrator shall find ineligible an applicant who has a felony conviction which directly relates to the duties and responsibilities of the occupation of pawnbroker.

C. If the Administrator is unable to verify that the applicant meets the net assets requirement for a pawnshop license, the Administrator may require a finding, including the presentation of a current balance sheet, by an accounting firm or individual holding a permit to practice public accounting in this state, that the accountant has reviewed the books and records of the applicant and that the applicant meets the net assets requirement.

SECTION 3. AMENDATORY Section 10, Chapter 191, O.S.L. 1988, as amended by Section 2, Chapter 217, O.S.L. 1989 (59 O.S. Supp. 1990, Section 1515), is amended to read as follows:

Section 1515. A. Any pawnbroker shall ~~make available~~ give 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, 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 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~~ give 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, 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 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 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1506.1 of Title 59, unless there is created a duplication in numbering, reads as follows

A. Each pawnbroker shall, during any thirty-six-month period, complete not less than eighteen (18) clock hours of continuing education. Continuing education shall not include a written or oral examination.

B. The Administrator of Consumer Credit shall approve courses and providers of continuing education.

C. Each provider of continuing education shall, after approval by the Administrator, submit an annual fee of One Hundred Dollars (\$100.00), payable to the Administrator, which shall be deposited to the General Revenue Fund; provided, publicly funded educational institutions shall be exempt from the requirements of this subsection.

D. Failure of a pawnbroker to comply with the requirements of this section may, after notice and hearing, result in censure, suspension, nonrenewal of license or a fine of up to Five Hundred Dollars (\$500.00) or by a combination of such penalties and fine. Said fine may be enforced in the same manner in which civil judgments may be enforced. Any fines collected under the provisions of this section shall be deposited in the General Revenue Fund.

E. The Administrator shall promulgate rules and regulations as are necessary for effective administration of this section.

SECTION 5. This act shall become effective September 1, 1991.

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