

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1561

By: Vaughn (Ray)

AS INTRODUCED

An Act relating to professions and occupations;  
amending 59 O.S. 1991, Sections 1508 and 1511, as  
amended by Sections 3 and 4, Chapter 280, O.S.L.  
1992 (59 O.S. Supp. 1992, Sections 1508 and 1511),  
which relate to the Oklahoma Pawnshop Act;  
authorizing certain interest in property for  
certain services provided by pawnbrokers; requiring  
certain notice; providing for failure to provide  
such notice; providing procedure for owner to  
reacquire certain property; including and exempting  
certain persons and businesses from the Oklahoma  
Pawnshop Act; 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. 1991, Section 1508, as  
amended by Section 3, Chapter 280, O.S.L. 1992 (59 O.S. Supp. 1992,  
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 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. For such service provided by the pawnbroker, the pawnbroker shall receive reasonable compensation interest in property. Such interest shall be awarded the pawnbroker by the owner for the return of the property. The district attorney's office shall advise in writing each sixty (60) days to continue the hold. Failure to advise the pawnbroker shall release the property to the pawnbroker

for disposition pursuant to other sections of the Oklahoma Pawnshop Act.

D. 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.~~ E. 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.

~~E.~~ F. 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.

~~F.~~ G. 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.

~~G.~~ H. 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.

~~H.~~ I. 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.

~~I.~~ J. 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 2. AMENDATORY 59 O.S. 1991, Section 1511, as amended by Section 4, Chapter 280, O.S.L. 1992 (59 O.S. Supp. 1992, 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. The original owner of the property may acquire the return of such owner's property by the payment of an amount equal to the original loan or purchase price paid by the pawnbroker.

C. Customer's Personal Liabilities Prohibited. Even though a pawn transaction subject to Section 1501 et seq. of this 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 the pledged goods are found to be stolen, embezzled, mortgaged or otherwise pledged or encumbered. 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.~~ D. 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.~~ E. 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.~~ F. 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 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1512.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

Any person or business engaged in trading or buying used property from individuals shall be subject to the Oklahoma Pawnshop Act. Purchases made from other businesses engaged in such sales shall be exempt from the Oklahoma Pawnshop Act.

SECTION 4. This act shall become effective September 1, 1993.

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