

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1478

By: Daniels

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6 AS INTRODUCED

7 An Act relating to pawnbrokers; amending 59 O.S.
8 2011, Section 1502, which relates to definitions;
9 modifying and adding definitions; prohibiting
10 purchasing and pawn transaction on gift card;
11 construing issuing and accepting gift cards for
12 payment; prohibiting purchasing and pawn transactions
13 under certain conditions; stating conditions;
14 allowing return of certain property under certain
15 return policy; construing new property for sale;
16 stating certain inferences that property is stolen;
17 stating certain conditions for suspected stolen
18 property; requiring written record as proof of
19 verification that property is not stolen; exempting
20 certain property from stolen inference; stating
21 methods to verify stolen property; making certain
22 vehicles presumed to be stolen; providing for
23 codification; and providing an effective date.

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

29 SECTION 1. AMENDATORY 59 O.S. 2011, Section 1502, is
30 amended to read as follows:

31 Section 1502. As used in ~~this act~~ the Oklahoma Pawnshop Act:

32 1. "Administrator" means the Administrator of Consumer Affairs
33 defined in the Uniform Consumer Credit Code.

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

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

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

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

13 6. "Pawn transaction" means the act of lending money on the
14 security of pledged goods or the act of purchasing tangible personal
15 property on condition that it may be redeemed or repurchased by the
16 seller for a fixed price within a fixed period of time; provided,
17 however, no pawn transaction shall be conducted on a gift card or
18 transaction card.

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

22 8. "Pledged goods" means tangible personal property other than
23 a gift card, transaction card, choses in action, securities or
24 printed evidences of indebtedness, which property is deposited with

1 or otherwise actually delivered into the possession of a pawnbroker
2 in the course of his or her business in connection with a pawn
3 transaction.

4 9. "Gift card" means a record that is usable at a single
5 merchant or specified group of merchants that is prefunded before
6 the record is used, and that may be used to purchase goods and
7 services.

8 10. "Transaction card" means a card, code or other means of
9 access to valuable consideration with a retail business that is
10 issued to a person and authorizes such person to obtain, purchase or
11 receive goods, services, money or another thing of value through the
12 use of such transaction card.

13 SECTION 2. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1516 of Title 59, unless there
15 is created a duplication in numbering, reads as follows:

16 A. A pawnbroker shall be prohibited from purchasing or
17 conducting a pawn transaction on a gift card or transaction card.

18 B. Nothing in this section shall be construed to prohibit a
19 pawnbroker from issuing a gift card or transaction card that bears
20 the brand or name of the pawnbroker's business or from accepting a
21 gift card as payment for goods.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1517 of Title 59, unless there
24 is created a duplication in numbering, reads as follows:

1 A. A pawnbroker shall be prohibited from purchasing or
2 conducting a pawn transaction if it is apparent that the property,
3 upon inspection:

4 1. Has a serial number or another form of indicia of ownership
5 that has been removed, altered, defaced or obliterated;

6 2. Has indicia of being new but is not accompanied by a written
7 receipt or other satisfactory proof of ownership other than the
8 seller's own statement; or

9 3. Is a gift card, transaction card or another physical or
10 digital card or certificate evidencing a retail store credit.

11 B. The provisions of this section shall not apply if the
12 pawnbroker is the original purchaser and seller of the property and
13 is accepting a return of the property as provided by the
14 pawnbroker's established return policy.

15 C. For purposes of this section, property is presumed to have
16 had indicia of being new at the time of a transaction if the
17 property is subsequently advertised by the pawnbroker as being new
18 property.

19 SECTION 4. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1518 of Title 59, unless there
21 is created a duplication in numbering, reads as follows:

22 A. There shall be a presumption that the property in a pawnshop
23 or offered for a pawn transaction is stolen when:
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1 1. A pawnbroker is in possession of property recently reported
2 stolen;

3 2. The pawn transaction is conducted at a price substantially
4 below the fair market value;

5 3. The pawn transaction or sale of property is outside of the
6 regular course of business or without the usual indicia of ownership
7 other than mere possession;

8 4. The property has a name or phone number or other
9 identification of a person other than the person who pawned the
10 property, or a person's name is conspicuously displayed on the
11 property which is different than the name of the person conducting
12 the pawn transaction;

13 5. The property has a name or phone number for a business that
14 rents property and the pawnbroker does not contact such business
15 prior to accepting the property in a pawn transaction to verify that
16 the property is not stolen from such business; or

17 6. The property being offered in a pawn transaction has no
18 proof of purchase or usual indicia of ownership other than mere
19 possession and the pawnbroker does not contact the local law
20 enforcement agency in the jurisdiction where the pawnbroker is
21 located, prior to accepting the property, to verify that the
22 property has not been reported stolen.

23 B. For proof of verification that the pawnbroker attempted to
24 verify whether property is stolen, an accurate written record which

1 contains the number called, the date and time of the call, and the
2 name and place of employment of the person who verified that the
3 property was not stolen, is sufficient evidence to avoid the
4 inference that the property in the possession of the pawnbroker is
5 stolen.

6 C. This section shall not apply to:

7 1. Used sports equipment that does not contain a serial number,
8 printed or recorded materials, computer software or videos or video
9 games; and

10 2. A pawnbroker who implements in a continuous and consistent
11 manner a program for identification and return of stolen property
12 that meets the following criteria:

13 a. when a pawnbroker is offered property that contains
14 conspicuous identifying information that includes a
15 name and phone number or property that contains
16 ownership information affixed to the property pursuant
17 to a written agreement with a business entity or group
18 of associated business entities, the pawnbroker must
19 promptly contact the individual or company whose name
20 is affixed to the property by phone to confirm that
21 the property has not been stolen,

22 b. when a pawnbroker is unable to verify whether the
23 property is stolen, and if the pawnbroker accepts the
24 property that is later determined to have been stolen,

1 the pawnshop must voluntarily return the property at
2 no cost and without necessity of a replevin action, if
3 the property owner files the appropriate theft reports
4 and enters into an agreement with the pawnbroker to
5 actively participate in the prosecution of the persons
6 or persons who perpetrated the crime, or

7 c. proof that a pawnbroker is in possession of a stolen
8 motor vehicle with the ignition mechanism broken or
9 bypassed or the steering wheel locking mechanism
10 broken or bypassed, shall be a rebuttable presumption
11 that the pawnbroker in possession of the stolen motor
12 vehicle knew or should have known that the motor
13 vehicle had been stolen.

14 SECTION 5. This act shall become effective November 1, 2020.

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