

HOUSE BILL REPORT

SSB 5613

*As Reported By House Committee on:
Commerce & Labor*

Title: An act relating to pawnbrokers and second-hand dealers.

Brief Description: Regulating pawnbrokers and second-hand dealers.

Sponsor(s): Senate Committee on Commerce & Labor (originally sponsored by Senators Matson, Moore, McCaslin, McMullen, Snyder, Bauer, Vognild, Sutherland, Thorsness, Johnson and Hansen).

Brief History:

Reported by House Committee on:
Commerce & Labor, March 28, 1991, DPA.

**HOUSE COMMITTEE ON
COMMERCE & LABOR**

Majority Report: *Do pass as amended.* Signed by 11 members: Representatives Heavey, Chair; Cole, Vice Chair; Fuhrman, Ranking Minority Member; Lisk, Assistant Ranking Minority Member; Franklin; Jones; R. King; O'Brien; Prentice; Vance; and Wilson.

Staff: Jim Kelley, (786-7166).

Background:

Definitions

By statute, Washington regulates the business of pawnbrokers and second-hand dealers. "Pawnbroker" is defined as every person engaged, in whole or in part, in the business of loaning money on the security of pledges, deposits or conditional sales of personal property. "Second-hand dealer" is defined as every person engaged, in whole or in part, in the business of purchasing, selling, trading, consignment selling, or otherwise transferring for value, second-hand property.

Recordkeeping

Pawnbrokers and second-hand dealers are required to keep specific records of each transaction they make. Upon request, pawnbrokers and second-hand dealers are required to deliver or mail to the police, within 24 hours, a transcript of all transactions conducted on the preceding day.

Restrictions on transfer of property

Following notification from the police that an item of property has been reported as stolen, a pawnbroker or second-hand dealer may not release that item for 120 days without the consent of the police or an order of the court.

Property bought or received in pledge or by consignment may not be removed from that place of business within 15 days after the receipt of that property. The property shall be open to inspection by the police.

Pawnbrokers may not sell any property within 90 days after the term of the loan expires. The term of any loan is not specified by statute.

Interest and fees

The statute provides a schedule of the maximum amount of interest and fees that pawnbrokers may charge for money loaned on the security of personal property received in pledge. The schedule allows a charge of 3 percent per month for loans of \$126 or more.

There is also a schedule, in statute, of the maximum fees that pawnbrokers may charge for the preparation of documents, pledges, or reports required by law. The highest rate on the schedule is \$20 for loans of \$500 or more.

Attorney's fees and costs

In a court action brought by an owner to recover goods in the possession of a pawnbroker or second-hand dealer, the prevailing party is entitled to reasonable attorney's fees and costs. There is no similar provision for an action brought by a pawnbroker or second-hand dealer against an owner to determine title or ownership of an item.

Prohibited acts

It is a misdemeanor for a person to alter a serial number or identifying mark on a piece of personal property that has been pledged. There is no penalty for accepting altered property.

It is currently possible to avoid the interest and fee restrictions of this statute by purchasing property on condition of selling it back at a stipulated price greater than the purchase price.

Summary of Amended Bill:

Definitions

The definition of pawnbroker is amended to include any person engaged in the business of loaning money on the security of pledged personal property or the purchase or sales of personal property.

The definition of second-hand dealer is amended to specifically include an individual who leases space at a flea market or swap meet and who conducts business with the public more than three times per year.

"Term of the loan" is defined as 30 days, including the date of the loan.

Recordkeeping

The records of each transaction kept by a pawnbroker or second-hand dealer must include the following additional information: the name or identification number of the employee conducting the transaction; the telephone number of the person with whom the transaction is made; and the store identification number or name and address of the store. Transcripts of the previous day's business, when requested by the police, within the time period required by the police, may be transmitted by facsimile or computer.

Restrictions on transfer of property

In cases where the police place a verbal hold on an item that has been reported as stolen, the police must then give written notice to the pawnbroker or second-hand dealer holding the property within 10 business days, or the hold order will cease. The pawnbroker or second-hand dealer must give the police a 20 day written notice before the expiration of the 120 day period. If the 20 day notice is not given, then the hold on the property will continue for an additional 120 days.

Property bought or received in pledge or by consignment may not be removed from the place of business within 30 days after the receipt of that property, except when redeemed by or returned to the owner.

Pawnbrokers may not sell property within at least a 60 day grace period after the term of the loan expires. After the grace period expires, the pawnbroker is not required to account to the person who received the loan for the proceeds from that item.

Interest and fees

The schedule of the maximum amount of interest and fees that pawnbrokers may charge for money loaned on the security of personal property received in pledge is changed. The schedule allows a charge of 3 percent per month for loans of \$100 or more.

The schedule of the maximum fees that pawnbrokers may charge for the preparation of documents, pledges, or reports required by law is amended for loans of \$500 or more. For equivalent amounts loaned, the maximum fees that may be charged are reduced. However, the schedule is extended to cover loan amounts of \$4,500 or more, for which the maximum fee that may be charged is \$90, for one time only.

Attorney's fees and costs

In a court action to determine title or ownership of an item, the prevailing party is entitled to reasonable attorney's fees and costs.

Prohibited acts

It is a gross misdemeanor for a person to accept for pledge or a second-hand purchase personal property on which the manufacturer's serial number or identifying mark has been altered.

A person may not avoid the interest and fee restrictions of this statute by purchasing property on condition of selling it back at a stipulated price greater than the purchase price.

Negotiable instruments may not be accepted or constitute personal property for the purpose of a loan transaction.

Amended Bill Compared to Substitute Bill: The amended bill lowers the amount of interest that a pawnbroker may charge for loans of \$100 or more from 4 percent to 3 percent per month. The amended bill prohibits the pawning of negotiable instruments.

Fiscal Note: Available.

Effective Date of a Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill will be good for the industry and law enforcement agencies. An amendment lowering the maximum interest rate that may be charged by pawnbrokers would not cause a major problem.

Testimony Against: None.

Witnesses: Howard Zidell, Washington Pawnbrokers Association President (in favor).