

HOUSE BILL REPORT

SHB 2661

As Amended by the Senate

Title: An act relating to licensing and regulating money transmitters and currency exchangers.

Brief Description: Licensing and regulating money transmitters and currency exchangers.

Sponsors: By House Committee on Select Committee on Community Security (originally sponsored by Representative Hurst; by request of Governor Locke and Attorney General).

Brief History:

Committee Activity:

Select Committee on Community Security: 1/29/02, 2/6/02 [DPS].

Floor Activity:

Passed House: 2/16/02, 98-0.

Senate Amended.

Passed Senate: 3/6/02, 42-1.

Brief Summary of Substitute Bill

- Creates a joint task force on licensing and regulating money transmitters.
- Requires the Department of Financial Institutions to provide technical or other assistance to small businesses or local, immigrant, or ethnic communities to comply with federal money transmitter and currency exchange registration requirements.

HOUSE COMMITTEE ON SELECT COMMITTEE ON COMMUNITY SECURITY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Hurst, Chair; Simpson, Vice Chair; Lisk, Ranking Minority Member; Ballasiotes, Barlean, Benson, Buck, Campbell, Haigh, Jackley, Kessler, Morris, O'Brien and Schual-Berke.

Staff: Thamas Osborn (786-7129).

Background:

Money transmission— generally involves a relatively informal transaction in which the customer arranges to send money to another person through the services of an intermediary business - i.e., a money transmitter - in return for the payment of a fee. The transmission of the money can occur in any one of a number of ways, including by telephone, wire, facsimile, or computer. In international transactions involving the exchange of one currency for another, it is common for the money transmitter to provide currency exchange services as well.

Historically, the money transmission business in the United States has been dominated by two large corporations, Western Union and MoneyGram. As of 1996, these two companies accounted for 97 percent of the face value of funds transmitted nationwide. However, they accounted for only 81 percent of the total number of money transmission outlets (approximately 35,000), which means that the remaining 19 percent of the outlet locations (approximately 8,000) were in the hands of smaller, independent operators. These operations consist of small outlets managed either as private businesses operating their own small networks, or as one-person agencies that receive a customer's money on behalf of another money transmitter.

Money transmission services are commonly used by members of various ethnic groups in order to conduct international money transfers. According to a 1997 study, the growth of the industry has been driven by recent immigrants transmitting funds back to their countries of origin, usually to family members. Accordingly, the marketing of the service is often directed at ethnic communities, most notably Spanish-speaking populations. Such services are also used by those who - for cultural or other reasons - either do not maintain an account with a commercial bank or who simply feel more comfortable doing business with a small, neighborhood business that caters to a certain ethnic community.

At present, money transmission and currency exchange businesses are not subject to systematic regulation either by the state or the federal government. Though these businesses are subject to state and federal regulations pertaining to money laundering, currency transaction reporting, and consumer protection, there is currently no licensing requirement and no explicit regulation of their business practices. The absence of such regulatory oversight has become the subject of public scrutiny following the recent publication of evidence linking certain money transmission businesses with the financing of terrorist acts in this country.

In this state, businesses that provide financial services are generally subject to regulation by the Department of Financial Institutions (the department). The department is the agency responsible for the regulation of banks, savings and loans, credit unions, securities brokers, mortgage brokers, and other financial entities.

Summary of Substitute Bill:

The Joint Task Force on Licensing and Regulating Money Transmitters (Joint Task Force) is created. The Joint Task Force includes 10 legislative members. The membership includes three majority caucus and two minority caucus members from each house and at least one member each from the House Financial Institutions and Insurance Committee and the Senate Labor, Commerce and Financial Institutions Committee. The Joint Task Force may consult with or form an advisory committee of public and private sector interests. Provisions are included for staff support, expenses, and meetings.

The Joint Task Force must identify:

- direct or affiliate barriers to licensing for small community-based businesses or for local, immigrant, or ethnic communities not typically using traditional financial institutions;
- effects of money transmission and currency exchange licensing regulations in other states on small community-based businesses or for local, immigrant, or ethnic communities not typically using traditional financial institutions; and
- the methods by which other states have addressed technical assistance and access issues.

The Joint Task Force must make recommendations regarding: (1) a state licensing system in compliance with federal law and responsive to the state's statutory framework for other money service industries; and (2) implementation of a regulatory scheme to minimize: (a) adverse impact on small community-based businesses or for local, immigrant, or ethnic communities not typically using traditional financial institutions; and (b) disruption to legitimate purposes for current money transmission and currency exchange services in these communities.

The Joint Task Force is required to report its findings and recommendations to the Legislature by December 1, 2002.

The Department of Financial Institutions (department) must maintain a liaison member to the Joint Task Force, who will serve as a nonvoting member, and provide staff support for technical assistance to the Joint Task Force. The department also must provide appropriate technical or other assistance to small businesses or local, immigrant, or ethnic communities to comply with federal money transmitter and currency exchange registration requirements.

These provisions expire on July 1, 2003.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment strikes the entire text of the substitute House bill and replaces it with an extensive statutory framework for the licensing and regulation of money transmission and currency exchange businesses. The amendment contains provisions that:

Require that persons involved in the business of money transmission and currency exchange be licensed by the department;

Require that prospective licensees complete an application process that includes the disclosure of extensive background information about the business, its owners, managers, and employees;

Exempt specified governmental and financial institutions from coverage under the act;

Create bonding, net worth, and solvency requirements for licensees;

Provide protections for consumers and list prohibited practices;

Prescribes criminal penalties for certain violations of the act; and

Create a commission to oversee the implementation of the act so as to ensure consumer protection, prevent criminal activities, and promote public access to money services businesses.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: (Original bill) This bill was being prepared prior to September 11, 2001. Terrorists heavily utilize small, local money transmitters. Washington is a significant commercial center and needs to regulate this market. The federal regulations only capture wire transfers in excess of \$3,000.

Washington and 15-16 other states currently have no regulation of these types of businesses. Since September 11, 2001, the federal government has emphasized reporting requirements. Concern exists that the "bad guys" will be driven to unregulated states. This bill fills major regulatory gaps in current state law and would make it unlikely that money laundering would occur in Washington.

These community-based businesses are important to local citizens, as many countries do not have operating banking or postal systems. However, customers of these businesses are very vulnerable citizens -- they are generally non-English speaking and disinclined to seek remedies. This bill is a necessary regulatory initiative to protect consumers, and the bill considers the concerns of ethnic communities.

This bill is similar to legislation in other states. This bill is based on a uniform act but is narrower in scope.

Testimony Against: None.

Testified: (In support) Representative Hurst, prime sponsor; Mark Greenberg and Ezra Levine, Non-Bank Funds Transfer Group; Mark Thompson, Department of Financial Institutions; Elaine Rose, Attorney General's Office; Fred Hellberg, Governor's Office; and Professor Anita Ramasastry, University of Washington.