
HOUSE BILL 2020

State of Washington 59th Legislature 2005 Regular Session

By Representatives Schual-Berke, Pettigrew, Kenney, Darneille, Cody, Dickerson, Kagi, Hasegawa, McCoy, McDermott, Lantz, Lovick, Flannigan, Hudgins, Hunt, P. Sullivan, Kessler, Conway, Green, Morrell, Ormsby, O'Brien, Chase, Moeller, Quall, B. Sullivan, McIntire, Williams, Kirby, Ericks and Upthegrove

Read first time 02/15/2005. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to payday lending practices; amending RCW 31.45.070
2 and 42.17.31911; and adding a new section to chapter 31.45 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 31.45 RCW
5 to read as follows:

6 (1) The director shall implement a common data base with real-time
7 access through an internet connection for licensees who make small
8 loans. The data base must allow the licensees and the department of
9 financial institutions to verify whether any small loans are
10 outstanding for a particular person.

11 (2)(a) Licensees shall submit required data before entering into a
12 small loan or payment plan. The data elements must include:

13 (i) The prospective borrower's name;

14 (ii) The prospective borrower's social security number or
15 employment authorization alien number;

16 (iii) The prospective borrower's address;

17 (iv) The prospective borrower's driver's license number or other
18 identification required by the licensee;

19 (v) The amount of the transaction;

1 (vi) The date of the transaction;
2 (vii) The date that the transaction is closed; and
3 (viii) Additional information as is required by the director by
4 rule.

5 (b) The data shall be in a format established by the director by
6 rule.

7 (3) The director may impose a fee not to exceed one dollar per
8 transaction when data is required to be submitted by a licensee under
9 subsection (2) of this section.

10 (4) A licensee may rely on the information contained in the data
11 base as accurate and is not subject to any administrative penalty or
12 civil liability as a result of relying on inaccurate information
13 contained in the data base.

14 (5) Identifying information contained in the data base is
15 confidential and exempt from public disclosure. The information may
16 only be accessed by licensees to verify whether any small loans are
17 outstanding for a particular person and by the department for the
18 purpose of enforcing this section.

19 (6) The director may adopt rules to implement this section.

20 **Sec. 2.** RCW 31.45.070 and 2003 c 86 s 7 are each amended to read
21 as follows:

22 (1) No licensee may engage in a loan business or the negotiation of
23 loans or the discounting of notes, bills of exchange, checks, or other
24 evidences of debt on the same premises where a check cashing or selling
25 business is conducted, unless the licensee:

26 (a) Is conducting the activities of pawnbroker as defined in RCW
27 19.60.010;

28 (b) Is a properly licensed consumer loan company under chapter
29 31.04 RCW;

30 (c) Is conducting other lending activity permitted in the state of
31 Washington; or

32 (d) Has a small loan endorsement.

33 (2) Except as otherwise permitted in this chapter, no licensee may
34 at any time cash or advance any moneys on a postdated check or draft.
35 However, a licensee may cash a check payable on the first banking day
36 following the date of cashing if:

1 (a) The check is drawn by the United States, the state of
2 Washington, or any political subdivision of the state, or by any
3 department or agency of the state or its subdivisions; or

4 (b) The check is a payroll check drawn by an employer to the order
5 of its employee in payment for services performed by the employee.

6 (3) Except as otherwise permitted in this chapter, no licensee may
7 agree to hold a check or draft for later deposit. A licensee shall
8 deposit all checks and drafts cashed by the licensee as soon as
9 practicable.

10 (4) A licensee must access the data base established in section 1
11 of this act and verify the number of outstanding small loans and
12 payment plans with an outstanding principal balance made to the
13 borrower. A licensee may not make a small loan to a borrower unless
14 the borrower has fewer than:

15 (a) Four small loans with outstanding principal balances with any
16 one licensee or all licensees combined;

17 (b) Four payment plans with outstanding balances with any one
18 licensee or all licensees combined; or

19 (c) A combination of four:

20 (i) Small loans with outstanding principal balances; and

21 (ii) Payment plans with outstanding balances with any one licensee
22 or all licensees combined.

23 (5) No licensee may issue or cause to be issued any check, draft,
24 or money order, or other commercial paper serving the same purpose,
25 that is drawn upon the trust account of a licensee without concurrently
26 receiving the full principal amount, in cash, or by check, draft, or
27 money order from a third party believed to be valid.

28 ~~((+5))~~ (6) No licensee may advertise, print, display, publish,
29 distribute, or broadcast or cause or permit to be advertised, printed,
30 displayed, published, distributed, or broadcast, any statement or
31 representation that is false, misleading, or deceptive, or that omits
32 material information, or that refers to the supervision of the licensee
33 by the state of Washington or any department or official of the state.

34 ~~((+6))~~ (7) Each licensee shall comply with all applicable federal
35 statutes governing currency transaction reporting.

36 **Sec. 3.** RCW 42.17.31911 and 1997 c 258 s 1 are each amended to
37 read as follows:

1 Examination reports and information obtained by the department of
2 financial institutions from banks under RCW 30.04.075, from savings
3 banks under RCW 32.04.220, from savings and loan associations under RCW
4 33.04.110, from credit unions under RCW 31.12.565, from check cashers
5 and sellers under RCW 31.45.030(3) and section 1 of this act, and from
6 securities brokers and investment advisers under RCW 21.20.100 are
7 confidential and privileged information and not subject to public
8 disclosure under this chapter.

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