
SENATE BILL 5920

State of Washington

61st Legislature

2009 Regular Session

By Senators Franklin, Berkey, Schoesler, Benton, Delvin, and Shin

Read first time 02/06/09. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to the underwriting of small loans by financial
2 institutions holding a check cashers license and small loan endorsement
3 by including a cap of thirty percent of the borrower's gross monthly
4 income on the combined outstanding principal balances of all small
5 loans; amending RCW 31.45.073 and 42.56.230; and adding a new section
6 to chapter 31.04 RCW.

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

8 **Sec. 1.** RCW 31.45.073 and 2003 c 86 s 8 are each amended to read
9 as follows:

10 (1) No licensee may engage in the business of making small loans
11 without first obtaining a small loan endorsement to its license from
12 the director in accordance with this chapter. An endorsement will be
13 required for each location where a licensee engages in the business of
14 making small loans, but a small loan endorsement may authorize a
15 licensee to make small loans at a location different than the licensed
16 locations where it cashes or sells checks. A licensee may have more
17 than one endorsement.

18 (2) The termination date of a small loan may not exceed the
19 origination date of that same small loan by more than forty-five days,

1 including weekends and holidays, unless the term of the loan is
2 extended by agreement of both the borrower and the licensee and no
3 additional fee or interest is charged. The maximum principal amount of
4 any small loan, or the outstanding principal balances of all small
5 loans made by a licensee to a single borrower at any one time, may not
6 exceed seven hundred dollars. At any time, the aggregate principal
7 balances of all small loans may not exceed thirty percent of the gross
8 monthly income of the borrower. In determining the gross monthly
9 income, the licensee may rely on evidence of income that is no more
10 than twelve months old.

11 (3) A licensee that has obtained the required small loan
12 endorsement may charge interest or fees for small loans not to exceed
13 in the aggregate fifteen percent of the first five hundred dollars of
14 principal. If the principal exceeds five hundred dollars, a licensee
15 may charge interest or fees not to exceed in the aggregate ten percent
16 of that portion of the principal in excess of five hundred dollars. If
17 a licensee makes more than one loan to a single borrower, and the
18 aggregated principal of all loans made to that borrower exceeds five
19 hundred dollars at any one time, the licensee may charge interest or
20 fees not to exceed in the aggregate ten percent on that portion of the
21 aggregated principal of all loans at any one time that is in excess of
22 five hundred dollars. The director may determine by rule which fees,
23 if any, are not subject to the interest or fee limitations described in
24 this section. It is a violation of this chapter for any licensee to
25 knowingly loan to a single borrower at any one time, in a single loan
26 or in the aggregate, more than the maximum principal amount described
27 in this section.

28 (4) In connection with making a small loan, a licensee may advance
29 moneys on the security of a postdated check. The licensee may not
30 accept any other property, title to property, or other evidence of
31 ownership of property as collateral for a small loan. The licensee may
32 accept only one postdated check per loan as security for the loan. A
33 licensee may permit a borrower to redeem a postdated check with a
34 payment of cash or the equivalent of cash. The licensee may disburse
35 the proceeds of a small loan in cash, in the form of a check, or in the
36 form of the electronic equivalent of cash or a check.

37 (5) No person may at any time cash or advance any moneys on a

1 postdated check or draft in excess of the amount of goods or services
2 purchased without first obtaining a small loan endorsement to a check
3 cashier or check seller license.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 31.04 RCW
5 to read as follows:

6 (1) The director shall, by contract with a vendor or service
7 provider or otherwise, develop and implement a system by means of which
8 a licensee may determine as of the time of accessing the system:

9 (a) Whether a consumer has an outstanding small loan with another
10 licensee or other licensees;

11 (b) The number of small loans the consumer has outstanding;

12 (c) The aggregate principal balance owed by the consumer on all
13 outstanding small loans; and

14 (d) Any other information required in rule by the director and that
15 is necessary to comply with chapter 31.45 RCW.

16 (2) The director may specify the form and contents of the system by
17 rule. Any system must provide that the information entered into or
18 stored by the system is:

19 (a) Accessible to and usable by licensees and the director at all
20 times from any licensed location or through the internet; and

21 (b) Secured against public disclosure, tampering, theft, or
22 unauthorized acquisition or use.

23 (3) A licensee making small loans under chapter 31.45 RCW must
24 enter or update the required information in subsection (1) of this
25 section as follows:

26 (a) Immediately upon origination of a small loan the licensee shall
27 enter the origination date, payment due date, and principal balance;

28 (b) Immediately upon origination of a payment plan associated with
29 a small loan the licensee shall enter the origination date of the
30 payment plan, the principal balance, and the date of the last scheduled
31 payment;

32 (c) If a consumer rescinds a loan, the licensee shall report the
33 loan paid in full immediately upon rescission;

34 (d) If a consumer's check is returned unpaid by the consumer's
35 bank, the licensee shall enter information indicating the previous loan
36 is in default before the end of the business day on which the licensee
37 receives notification of the return of the consumer's check;

1 (e) If the consumer pays either a current or defaulted small loan
2 or payment plan in full by cash payment, the licensee shall immediately
3 enter information indicating the small loan or payment plan is paid in
4 full; and

5 (f) If the consumer pays either a current or defaulted small loan
6 or payment plan in full by deposit of their postdated check, the
7 licensee shall enter information indicating the small loan or payment
8 plan is paid in full before the end of the business day on which the
9 licensee deposits the consumer's check.

10 (4) A licensee must continue to enter and update all required
11 information for any loans subject to chapter 31.45 RCW that are
12 outstanding after the date on which the licensee no longer has the
13 license or small loan endorsement required by this chapter. Within ten
14 business days after ceasing to make loans subject to chapter 31.45 RCW,
15 the licensee must submit a plan for continuing compliance with this
16 subsection to the director for approval. The director must promptly
17 approve or disapprove the plan and may require the licensee to submit
18 a new or modified plan that ensures compliance with this subsection.

19 (5) If the system described in subsection (1) of this section is
20 developed and implemented, the director shall adopt by rule a fee or
21 fees that a vendor or service provider that operates or administers the
22 system may charge a licensee in making a small loan for use of the
23 system described in subsection (1) of this section. The fee or fees
24 may not exceed one dollar per loan transaction.

25 (6) The director shall adopt rules establishing standards for the
26 retention, archiving, and deletion of information entered into or
27 stored by the system described in subsection (1) of this section.

28 (7) The system must be available for use by licensees at all times.
29 If the system is unavailable to licensees because of circumstances
30 beyond the vendor's control, the vendor must notify the department of
31 the date and time that the system became unavailable to licensees and
32 the date and time that availability was restored. The vendor must
33 provide an alternative means for licensees to obtain information from
34 the system in the event of system failure. If the licensee is unable
35 to obtain information from the system or the alternative due to
36 computer failure on the part of the vendor or failures of the
37 communication system necessary to access the system, then the licensee
38 may assume that the consumer has no other loans outstanding with other

1 licensees. If the inability to access the system is due to a failure
2 of the licensee's computer system, then the licensee may not make a
3 loan to a consumer unless the licensee can verify that the loan does
4 not violate the provisions of RCW 31.45.073.

5 (8) A licensee is prohibited from using the information contained
6 in the system for any purpose other than determining whether a consumer
7 is eligible for a small loan and if so, in what amount. A licensee is
8 specifically prohibited from using information obtained from the system
9 to determine whether a consumer is eligible for a small loan and then
10 marketing a small loan to the consumer on the basis of that
11 information.

12 (9) The information in the system described in subsection (1) of
13 this section is not subject to public inspection or disclosure under
14 chapter 42.56 RCW.

15 **Sec. 3.** RCW 42.56.230 and 2008 c 200 s 5 are each amended to read
16 as follows:

17 The following personal information is exempt from public inspection
18 and copying under this chapter:

19 (1) Personal information in any files maintained for students in
20 public schools, patients or clients of public institutions or public
21 health agencies, or welfare recipients;

22 (2) Personal information in files maintained for employees,
23 appointees, or elected officials of any public agency to the extent
24 that disclosure would violate their right to privacy;

25 (3) Information required of any taxpayer in connection with the
26 assessment or collection of any tax if the disclosure of the
27 information to other persons would (a) be prohibited to such persons by
28 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (b) violate the
29 taxpayer's right to privacy or result in unfair competitive
30 disadvantage to the taxpayer;

31 (4) Credit card numbers, debit card numbers, electronic check
32 numbers, card expiration dates, or bank or other financial account
33 numbers, except when disclosure is expressly required by or governed by
34 other law; (~~and~~)

35 (5) Personal and financial information related to a small loan or
36 any system of authorizing a small loan under section 2 of this act; and

1 (6) Documents and related materials and scanned images of documents
2 and related materials used to prove identity, age, residential address,
3 social security number, or other personal information required to apply
4 for a driver's license or identicard.

--- END ---