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## SENATE BILL NO. 1176

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend and reenact §§ 54.1-4000 through 54.1-4002, 54.1-4009 through 54.1-4014 of the Code of Virginia, relating to the regulation of pawnbrokers and secondhand dealers.

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Patron—Stolle

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Referred to Committee on General Laws and Technology

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-4000 through 54.1-4002, 54.1-4009 through 54.1-4014 of the Code of Virginia are amended as follows:**

## CHAPTER 40.

## PAWNBROKERS AND SECONDHAND DEALERS.

## § 54.1-4000. Definitions.

"Antiques dealer" means any person, corporation, or other business organization or entity engaged in the business of purchasing, for the purpose of resale to the public, furniture and household goods manufactured, built or constructed more than 100 years prior to their purchase by the dealer.

"Pawnbroker" means any person who lends or advances money or other things for profit on the pledge and possession of tangible personal property, or other valuable things, other than securities or written or printed evidences of indebtedness or title, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price or who deals in purchasing personal property or other valuable things for resale to the public.

"Secondhand dealer" means any person, corporation, or other business organization or entity engaged in the business of purchasing secondhand goods. The term shall not include a pawnbroker, an antiques dealer or an organization that receives donations of secondhand goods for resale as a part of its fundraising efforts.

"Secondhand goods" means personal property previously owned or used that is purchased as used property. The term shall not include (i) any good, article, or item pawned or pledged to a pawnbroker, (ii) secondhand coins, gems and precious metals, the sale of which are regulated by Chapter 41 (§ 54.1-4100 et seq.), (iii) secondhand articles the sale of which are regulated by Chapter 9 (§ 59.1-117 et seq.) of Title 59.1, or (iv) a motor vehicle dealer offering a vehicle for sale on consignment.

"Secondhand store" means the place or premises at which a secondhand dealer is registered to conduct business as a secondhand dealer, or conducts business.

§ 54.1-4001. License required; license authorized by court; building designated in license; penalty.

A. No person shall engage in the business of a pawnbroker or secondhand dealer without having a valid license issued by the county, city or town in which the pawnbroker or secondhand dealer conducts such business.

B. The circuit court of any county or city may authorize any county, city or town to issue to any individual, who has not been convicted of a felony or a crime involving moral turpitude in the last ten years, a license to engage in the business of a pawnbroker or secondhand dealer in that county, city or town. No such license shall be issued by any county, city or town except with such authority. Prior to the issuance of the license, the applicant shall furnish his date of birth, a sworn statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether within or without the Commonwealth, and such other information to the licensing authority as may be required by the governing body. The license shall designate the building in which the licensee shall carry on such business.

C. No person shall engage in the business of a pawnbroker or secondhand dealer in any location other than the one designated in his license, except with consent of the court which authorized the license.

D. Any person who violates the provisions of this section shall be guilty of a Class 1 misdemeanor. Each day's violation shall constitute a separate offense.

§ 54.1-4002. Local limitations as to number of pawnshops and secondhand stores.

A. In addition to all limitations and restrictions and notwithstanding any other relevant provisions of this chapter, the governing body of any county, city or town may reasonably limit by resolution or ordinance the number of pawnshops and secondhand shops that may be operated at any one time within its territorial limits.

B. The circuit court of any county or city which has, by resolution or ordinance, limited the number

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SB1176

59 of pawnshops *and secondhand shops* therein shall not authorize any license to any pawnbroker *or*  
60 *secondhand dealer* after the commissioner of the revenue or other tax assessing officer of the county,  
61 city or town over which it has jurisdiction for the issuance of such licenses has filed with the court a  
62 statement that the number of licensed pawnshops *and secondhand shops* within the county, city or town  
63 has reached the maximum number of pawnshops *and secondhand shops* authorized to be operated  
64 therein, unless the number has been reduced below the maximum prescribed. In the event that a properly  
65 licensed pawnbroker *or secondhand dealer* sells his business, the circuit court of the county or city shall  
66 authorize the county, city or town in which such business operates to issue to the purchaser a new  
67 license for the same location if the purchaser has not been convicted of a felony or a crime involving  
68 moral turpitude in the last ten years. Prior to the issuance of the license, the purchaser shall furnish his  
69 date of birth and such other information to the licensing authority as may be required by the local  
70 governing body.

71 § 54.1-4009. Records to be kept; credentials of person pawning goods; fee; penalty.

72 A. Every pawnbroker shall ~~keep~~ *maintain for a period of at least one year* at his place of business  
73 an accurate and legible record of each loan or transaction in the course of his business, including  
74 transactions in which secondhand goods, wares or merchandise are purchased for resale. The account  
75 shall be recorded at the time of the loan or transaction and shall include:

76 1. A description, serial number, and a statement of ownership of the goods, article or thing pawned  
77 or pledged or received on account of money loaned thereon, or purchased for resale;

78 2. The time, date and place of the transaction;

79 3. The amount of money loaned thereon at the time of pledging the same or paid as the purchase  
80 price;

81 4. The rate of interest to be paid on such loan;

82 5. The fees charged by the pawnbroker, itemizing each fee charged;

83 6. The full name, residence address, telephone number, and driver's license number or other form of  
84 identification of the person pawning or pledging or selling the goods, article or thing, together with a  
85 particular description, including the height, weight, date of birth, race, gender, hair and eye color, and  
86 any other identifying marks, of such person;

87 7. Verification of the identification by the exhibition of a government-issued identification card such  
88 as a driver's license or military identification card. The record shall contain the type of identification  
89 exhibited, the issuing agency, and the number thereon;

90 8. As to loans, the terms and conditions of the loan, including the period for which any such loan  
91 may be made; and

92 9. All other facts and circumstances respecting such loan or purchase.

93 B. A pawnbroker may maintain at his place of business an electronic record of each transaction  
94 involving goods, article or things pawned or pledged or purchased. If maintained electronically, a  
95 pawnbroker shall retain the electronic records for at least one year after the date of the transaction and  
96 make such electronic records available to any duly authorized law-enforcement officer upon request.

97 C. For each loan or transaction, a pawnbroker may charge a service fee for making the daily  
98 electronic reports to the appropriate law-enforcement officers required by § 54.1-4010, creating and  
99 maintaining the electronic records required under this section, and investigating the legal title to property  
100 being pawned or pledged or purchased. Such fee shall not exceed five percent of the amount loaned on  
101 such item or paid by the pawnbroker for such item ~~or \$3, whichever is less.~~ *Every pawnbroker and*  
102 *secondhand dealer shall maintain in his place of business a single thumbprint record of each customer*  
103 *that delivers goods, articles or things pawned, pledged or purchased by the pawnbroker or secondhand*  
104 *dealer for at least one year after the date of the transaction. This record may be maintained*  
105 *electronically or in hard copy form.* Any person, firm, or corporation violating any of the provisions of  
106 this section shall be guilty of a Class 4 misdemeanor.

107 D. The Superintendent of State Police shall promulgate regulations specifying the nature of the  
108 particular description for the purposes of subdivision A 6.

109 The Superintendent of State Police shall promulgate regulations specifying the nature of identifying  
110 credentials of the person pawning, pledging or selling the goods. Such credentials shall be examined by  
111 the pawnbroker, and an appropriate record retained thereof.

112 § 54.1-4010. Daily reports.

113 A. Every pawnbroker shall prepare a daily report of all goods, articles or things pawned or pledged  
114 with him or sold to him that day and shall file such report by noon of the following day with the chief  
115 of police or other law-enforcement officer of the county, city or town where his business is conducted  
116 designated by the local attorney for the Commonwealth to receive it. The report shall include the  
117 pledgor's or seller's name, residence, and driver's license number or other form of identification, and a  
118 description of the goods, articles or other things pledged or sold. ~~and, unless maintained in electronic~~  
119 ~~format, shall be in writing and clearly legible to any person inspecting it. A pawnbroker may compile~~  
120 ~~and maintain the daily report in an electronic format and, if so maintained, shall file the required daily~~

reports electronically with the appropriate law-enforcement officer through use of a disk, *The report shall be transmitted to the appropriate law-enforcement officer via electronic transmission, or any other electronic means of reporting approved by the law-enforcement officer.* Any town with a population between 13,000 and 14,000 may by ordinance require a pawnbroker to maintain and file a daily report electronically through the use of a disk, electronic transmission, or any other electronic means of reporting approved by the law-enforcement officer.

*B. Every secondhand dealer shall prepare a daily report of all goods, articles, or things sold to him that day and shall file such report by noon of the following day with the chief of police or other law-enforcement officer of the county, city, or town where his business is conducted designated by the local attorney for the Commonwealth to receive it. The report shall include the seller's name, residence, and driver's license number or other form of identification, and a description of the goods, articles, or other things consigned or sold. The report shall be transmitted to the appropriate law-enforcement officer via electronic transmission, or any other electronic means of reporting approved by the law-enforcement officer.*

*C. The Department of State Police shall adopt regulations for the uniform reporting of information required by this section.*

*D. Any person, firm or corporation violating any of the provisions of this section shall be guilty of a Class 4 misdemeanor.*

§ 54.1-4011. Officers may examine records or property; warrantless search and seizure authorized.

Every pawnbroker and every employee of the pawnbroker *and every secondhand dealer and employee of the secondhand dealer* shall admit to the pawnbroker's *or the secondhand dealer's* place of business during regular business hours, any duly authorized law-enforcement officer of the jurisdiction where the business is being conducted, or any law-enforcement official of the state or federal government. The pawnbroker, *secondhand dealer* or employee shall permit the officer to (i) examine all records required by this chapter and any article listed in a record which is believed by the officer to be missing or stolen and (ii) search for and take into possession any article known to him to be missing, or known or believed by him to have been stolen. However, the officer shall not take possession of any article without providing to the pawnbroker a receipt.

§ 54.1-4012. Property pawned or purchased not to be disfigured or changed; hold period for purchases.

*A. No property received on deposit or pledged or purchased by any pawnbroker or secondhand dealer shall be disfigured or its identity destroyed or affected in any manner (i) so long as it continues in pawn or in the possession of the pawnbroker while in pawn or in the possession of the secondhand dealer, or (ii) in an effort to obtain a serial number or other information for identification purposes.*

*B. The pawnbroker or secondhand dealer shall retain all purchased goods for a minimum of 15 calendar days from the date the goods were purchased. Until the expiration of this period, the dealer shall not sell, alter, or dispose of a purchased item in whole or in part, or remove it from the county, city, or town in which the purchase was made.*

§ 54.1-4013. Care of tangible personal property; evaluation fee.

*A. Pawnbrokers shall store, care for and protect all of the tangible personal property in the pawnbroker's possession and protect the property from damage or misuse. Nothing in this chapter shall be construed to mean that pawnbrokers are insurers of pawned property in their possession.*

*B. A pawnbroker may charge a monthly storage fee for any items pawned or purchased requiring storage, which fee shall not exceed five percent of the amount loaned on such item.*

§ 54.1-4014. Penalties; violation of the Virginia Consumer Protection Act.

*A. Except as otherwise provided in § 54.1-4001, any licensed pawnbroker or secondhand dealer who violates any of the provisions of this chapter shall be guilty of a Class 4 misdemeanor. In addition, the court may revoke or suspend the pawnbroker's or secondhand dealer's license for second and subsequent offenses.*

*B. Additionally, any violation of the provisions of the chapter shall constitute a prohibited practice in accordance with § 59.1-200 and shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).*