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HOUSE BILL NO. 1709

Offered January 12, 2011

Prefiled January 10, 2011

A *BILL to amend and reenact §§ 54.1-4005, 54.1-4009, 54.1-4010, 54.1-4101, and 54.1-4104 of the Code of Virginia, relating to pawnbrokers and precious metals dealers; records required to be maintained.*

 Patron—Merricks

 Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-4005, 54.1-4009, 54.1-4010, 54.1-4101, and 54.1-4104 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-4005. Sale of goods pawned.

No pawnbroker shall sell any pawn or pledge item until (i) it has been in his possession for the minimum term set forth in the memorandum, but not less than ~~thirty~~ 45 days, plus a grace period of ~~fifteen~~ 15 days and (ii) a statement of ownership is obtained from the pawner. If a motor vehicle is pawned, the owner of the motor vehicle shall comply with the requirements of § 46.2-637. In the event of default by the pawner, the pawnbroker must comply with the requirements of § 46.2-633. Otherwise, the pawnbroker must comply with the requirements of § 46.2-636 et seq. All sales of items pursuant to this section may be made by the pawnbroker in the ordinary course of his business.

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

A. Every pawnbroker shall keep at his place of business an accurate and legible record of each loan or transaction in the course of his business, including transactions in which secondhand goods, wares or merchandise are purchased for resale. The account shall be recorded at the time of the loan or transaction and shall include:

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

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

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

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

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

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

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

8. *A photograph or digital image of (i) the person pawning or pledging or selling the goods, article or thing taken at the time of the transaction, (ii) the identification presented by the person for the transaction, and (iii) the goods, article or thing pawned or pledged or sold;*

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

10. All other facts and circumstances respecting such loan or purchase.

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

C. For each loan or transaction, a pawnbroker may charge a service fee for making the daily electronic reports to the appropriate law-enforcement officers required by § 54.1-4010, creating and maintaining the electronic records required under this section, and investigating the legal title to property being pawned or pledged or purchased. Such fee shall not exceed five percent of the amount loaned on such item or paid by the pawnbroker for such item or \$3, whichever is less. Any person, firm, or corporation violating any of the provisions of this section shall be guilty of a Class 4 misdemeanor.

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

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

62 § 54.1-4010. Daily reports.

63 Every pawnbroker shall prepare a daily report of all goods, articles or things pawned or pledged with
64 him or sold to him that day and shall file such report by noon of the following day with the chief of
65 police or other law-enforcement officer of the county, city or town where his business is conducted
66 designated by the local attorney for the Commonwealth to receive it. The report shall include the
67 pledgor's or seller's name, residence, and driver's license number or other form of identification, ~~and~~
68 *photograph or digital image of the pledgor or seller and the identification used by the pledgor for the*
69 *transaction*, a description of the goods, articles or other things pledged or sold, *a photograph or digital*
70 *image of the goods, article or thing pawned or pledged or sold* and, unless maintained in electronic
71 format, shall be in writing and clearly legible to any person inspecting it. A pawnbroker may compile
72 and maintain the daily report in an electronic format and, if so maintained, shall file the required daily
73 reports electronically with the appropriate law-enforcement officer through use of a disk, electronic
74 transmission, or any other electronic means of reporting approved by the law-enforcement officer. Any
75 local governing body, may by ordinance, require a pawnbroker to maintain and file a daily report
76 electronically through the use of a disk, electronic transmission, or any other electronic means of
77 reporting approved by the law-enforcement officer.

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

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

82 § 54.1-4101. Records to be kept; copy furnished to local authorities.

83 A. Every dealer shall keep at his place of business an accurate and legible record of each purchase of
84 precious metals or gems. The record of each purchase shall be retained by the dealer for at least
85 ~~twenty-four~~ 24 months and shall set forth the following:

86 1. A complete description of all precious metals or gems purchased from each seller. The description
87 shall include all names, initials, serial numbers or other identifying marks or monograms on each item
88 purchased, the true weight or carat of any gem, and the price paid for each item;

89 2. The date, time and place of receiving the items purchased;

90 3. The full name, residence address, work place, home and work telephone numbers, date of birth,
91 sex, race, height, weight, hair and eye color, and other identifying marks;

92 4. *Verification of the identification by the exhibition of a government-issued identification card such*
93 *as a driver's license or military identification card. The record shall contain the type of identification*
94 *exhibited, the issuing agency, and the number thereon;*

95 5. *A photograph or digital image of (i) the person selling the precious metals or gems taken at the*
96 *time of the transaction, (ii) the identification presented by the person for the transaction, and (iii) the*
97 *precious metals or gems sold;*

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

101 57. A statement of ownership from the seller.

102 B. The information required by subdivisions ~~1 through 3 of subsection A of this section~~ 1 through 3
103 shall appear on each bill of sale for all precious metals and gems purchased by a dealer, and a copy
104 shall be mailed or delivered within ~~twenty-four~~ 24 hours of the time of purchase to the chief
105 law-enforcement officer of the locality in which the purchase was made. *If maintained electronically, a*
106 *dealer shall retain the electronic records for at least one year after the date of the transaction and*
107 *make such electronic records available to any duly authorized law-enforcement officer upon request.*

108 § 54.1-4104. Dealer to retain purchases.

109 A. The dealer shall retain all precious metals or gems purchased for a minimum of ~~ten~~ 60 calendar
110 days from the date on which a copy of the bill of sale is received by the chief law-enforcement officer
111 of the locality in which the purchase is made. Until the expiration of this period, the dealer shall not
112 sell, alter, or dispose of a purchased item in whole or in part, or remove it from the county, city, or
113 town in which the purchase was made.

114 B. If a dealer performs the service of removing precious metals or gems, he shall retain the metals or
115 gems removed and the article from which the removal was made for a period of ~~ten~~ 60 calendar days
116 after receiving such article and precious metals or gems.