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HOUSE BILL NO. 1773

Offered January 9, 2019

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A BILL to amend and reenact §§ 54.1-4000, 54.1-4001, 54.1-4003, 54.1-4009, 54.1-4010, and 54.1-4200 of the Code of Virginia, relating to the definition of pawnbroker.

Patron—Mullin

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-4000, 54.1-4001, 54.1-4003, 54.1-4009, 54.1-4010, and 54.1-4200 of the Code of Virginia are amended and reenacted as follows:

§ 54.1-4000. Definition of pawnbroker.

"Pawnbroker" means any *natural* 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.

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

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

B. The circuit court of any county or city may authorize any county, city, or town to issue to any ~~individual~~ *natural person*, 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 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 *natural* person shall engage in the business of a pawnbroker in any location other than the one designated in his license, except with consent of the court which authorized the license.

D. Any *natural* 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.

§ 54.1-4003. Bond required; private action on bond.

A. No *natural* person shall be licensed as a pawnbroker or engage in the business of a pawnbroker without having in existence a bond with surety in the minimum amount of $50,000 to secure the payment of any judgment recovered under the provisions of subsection B.

B. Any person who recovers a judgment against a licensed pawnbroker for the pawnbroker's misconduct may maintain an action in his own name upon the bond of the pawnbroker if the execution issued upon such judgment is wholly or partially unsatisfied.

§ 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 is 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

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bearing a photograph of the person pawning, pledging, or selling the goods, article, or thing, 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 digital image of the form of identification used by the person involved in the transaction, unless the form of identification used is a United States military issued identification or other form of identification included under 18 U.S.C. § 701, in which case the person involved in the transaction shall be required to present an alternate government-issued identification card bearing a photograph of such person or the pawnbroker shall be required to take a photograph of the person involved in the transaction;

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, articles, 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:

1. 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; and

2. A late fee, not to exceed 10 percent of the amount loaned, for each item that is not claimed by the pledged date, provided that the pawner is notified of the fee on the pawn ticket.

Any *natural* person~~, firm, or corporation~~ violating any of the provisions of this section is guilty of a Class 4 misdemeanor.

D. No goods, article, or thing shall be pawned or pledged or received on account of money loaned or purchased for resale if the original serial number affixed to the goods, article, or thing has been removed, defaced, or altered.

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

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

§ 54.1-4010. Daily reports.

A. Every pawnbroker shall prepare a daily report of all goods, articles, or things pawned or pledged with him or 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 pledgor's or seller's name, residence, and driver's license number or other form of identification; a photograph or digital image of the form of identification used by the pledgor or seller; and a description of the goods, articles, or other things pledged or sold and, unless maintained in electronic format, shall be in writing and clearly legible to any person inspecting it. A pawnbroker may compile 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, electronic transmission, or any other electronic means of reporting approved by the law-enforcement officer. Any local governing body, 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. The Department of State Police shall adopt regulations for the uniform reporting of information required by this section.

C. Any *natural* person~~, firm, or corporation~~ violating any of the provisions of this section is guilty of a Class 4 misdemeanor.

§ 54.1-4200. Definitions.

For the purpose of this chapter, unless the context requires a different meaning:

"Dealer in firearms" means (i) any person, firm, partnership, or corporation engaged in the business of selling, trading or transferring firearms at wholesale or retail; (ii) any person, firm, partnership, or corporation engaged in the business of making or fitting special barrels, stocks, or trigger mechanisms to firearms; or (iii) any *natural* person~~, firm, partnership, or corporation~~ that is a pawnbroker.

"Engaged in business" means as applied to a dealer in firearms a person, firm, partnership, or corporation that devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through repetitive purchase or resale of

firearms, but such term shall not involve a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms.

"Firearms show" means any gathering or exhibition, open to the public, not occurring on the permanent premises of a dealer in firearms, conducted principally for the purposes of exchanging, selling or trading firearms as defined in § 18.2-308.2:2.

2. That any county, city, or town may extend the license of a pawnbroker that is not a natural person for a period of up to one year after the effective date of this act.

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