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SENATE BILL NO. 653

Offered January 18, 2006

A *BILL to amend and reenact §§ 54.1-4000 through 54.1-4003, 54.1-4008 through 54.1-4011, and 54.1-4014 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 40 of Title 54.1 a section numbered 54.1-4015, relating to the regulation of pawnbrokers and secondhand dealers.*

Patron—Stolle

Referred to Committee on General Laws and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-4000 through 54.1-4003, 54.1-4008 through 54.1-4011, and 54.1-4014 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 40 of Title 54.1 a section numbered 54.1-4015 as follows:

CHAPTER 40.

PAWNBROKERS AND SECONDHAND DEALERS.

§ 54.1-4000. Definitions.

"Consignment" means any transfer of secondhand goods by the seller to the custody of another person who acts as the agent for the seller for the purpose of selling such secondhand goods.

"Consignment shop" means a shop engaging in the business of accepting for sale, or consignment, secondhand goods that, having once been used or transferred from the manufacturer to the dealer, are then received into the possession of a third party.

"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.

"Secondhand dealer" means any person, corporation, or other business organization or entity engaged in the business of purchasing or consigning secondhand goods. The term shall not include a pawnbroker.

"Secondhand goods" means personal property previously owned or used that is purchased or consigned 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, secondhand stores and consignment shops.

A. In addition to all limitations and restrictions and notwithstanding any other relevant provisions of

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59 this chapter, the governing body of any county, city or town may reasonably limit by resolution or
60 ordinance the number of pawnshops, *secondhand stores*, and *consignment shops* that may be operated at
61 any one time within its territorial limits.

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

75 § 54.1-4003. Bond required; private action on bond.

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

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

84 § 54.1-4008. Interest chargeable.

85 A. No pawnbroker shall ask, demand or receive a greater rate of interest than ten percent per month
86 on a loan of \$25 or less, or seven percent per month on a loan of more than \$25 and less than \$100, or
87 five percent per month on a loan of \$100 or more, secured by a pledge of tangible personal property.
88 No loan shall be divided for the purpose of increasing the percentage to be paid the pawnbroker. Loans
89 may be renewed based on the original loan amount. Loans may not be issued that compound the interest
90 or storage fees from previous loans on the same item.

91 B. An annual percentage rate computed and disclosed under the provisions of the federal
92 Truth-in-Lending Act shall not be deemed a violation of this section.

93 C. *Nothing in this section shall prohibit a pawnbroker from charging additional fees for other*
94 *services that are provided as long as such fees are reasonable.*

95 § 54.1-4009. Records to be kept; credentials of person pawning goods; fee; penalty.

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

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

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

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

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

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

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

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

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

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

117 B. A pawnbroker may maintain at his place of business an electronic record of each transaction
118 involving goods, article or things pawned or pledged or purchased. If maintained electronically, a
119 pawnbroker shall retain the electronic records for at least one year after the date of the transaction and
120 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.

The Superintendent of State Police shall promulgate regulations specifying the nature of identifying credentials of the person pawning, pledging or selling the goods. 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, 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 ~~locality 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 or taken on consignment by 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 consignor's or 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 and, unless maintained in electronic format, shall be in writing and clearly legible to any person inspecting it. A secondhand dealer 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 locality may by ordinance require a secondhand dealer 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.

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 *their* 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.

§ 54.1-4014. 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.).

§ 54.1-4015. Local ordinances.

182 *Nothing in this chapter shall prevent any county, city, or town in the Commonwealth from enacting*
183 *an ordinance regulating pawnbrokers or secondhand dealers that parallels this chapter, or that imposes*
184 *terms, conditions, and fees that are stricter, more comprehensive, or larger than those imposed by this*
185 *chapter. In any event, the terms, conditions, and fees imposed by this chapter shall constitute minimum*
186 *requirements in any local ordinance. Any fee in excess of the fee to obtain the license required by*
187 *§ 54.1-4001 shall be reasonably related to the cost of enforcement of such local ordinance.*