

20100530D

HOUSE BILL NO. 28

Offered January 8, 2020

Prefiled November 19, 2019

A BILL to amend and reenact §§ 54.1-4000 through 54.1-4003, 54.1-4009, 54.1-4010, and 54.1-4200 of the Code of Virginia and to repeal the second enactment of Chapter 238 of the Acts of Assembly of 2019, relating to pawnbrokers.

Patron—Lindsey

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-4000 through 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. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Pawnbroker" means any ~~natural~~ person ~~who~~ that 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~~ that 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.

"Person" means an individual or a business entity, including a corporation, limited liability company, or partnership, that is organized under the laws of the Commonwealth.

§ 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 ~~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, *if the person has not been convicted of a felony or crime involving moral turpitude within the preceding 10 years and, if the person is a business entity, its directors, senior officers, principals, and members, as applicable, have not been convicted of a felony or crime involving moral turpitude within the preceding 10 years.* 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, *and if the applicant is a business entity, its directors, senior officers, principals, and members, as applicable,* shall furnish his date of birth, a sworn statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether within or ~~without~~ outside 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~~ *its* license, except with consent of the court ~~which~~ *that* authorized the license.

D. Any ~~natural~~ person who violates the provisions of this section ~~shall be~~ *is* 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.

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 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 of pawnshops therein shall not authorize any license to any pawnbroker after the commissioner of the revenue or other tax assessing officer of the county, city or town over which it has jurisdiction for the issuance of such licenses has filed with the court a statement that the number of licensed pawnshops within the county, city or town has reached the maximum number of pawnshops authorized to be operated therein, unless the number has been reduced below the maximum prescribed. In the event that a properly licensed pawnbroker sells his *or its* business, the circuit court of the county or city shall authorize the county, city or town in which such business operates to issue to the purchaser a new license for the same location if the purchaser has not been convicted of a felony or a crime involving moral turpitude ~~in~~ *within* the last ~~ten~~ *preceding 10* years *and, if the purchaser is a business entity, its directors, senior officers, principals, and members, as applicable, have not been convicted of a felony or crime involving moral turpitude within the preceding 10 years.* Prior to the issuance of the license, the

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59 purchaser, and if the purchaser is a business entity, its directors, senior officers, principals, and
60 members, as applicable, shall furnish his date of birth and such other information to the licensing
61 authority as may be required by the local governing body.

62 **§ 54.1-4003. Bond required; private action on bond.**

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

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

69 **§ 54.1-4009. Records to be kept; credentials of person pawning goods; fee; penalty.**

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

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

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

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

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

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

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

85 7. Verification of the identification by the exhibition of an unexpired government-issued identification
86 card bearing the current legal address and a photograph of the person pawning, pledging, or selling the
87 goods, article, or thing, such as a driver's license or military identification card. If the government-issued
88 identification card does not bear the current legal address, the person shall present other documentation
89 verifying his current legal address. The record shall contain the type of identification exhibited, the
90 issuing agency, and the number thereon;

91 8. A digital image of the form of identification used by the person involved in the transaction, unless
92 the form of identification used is a United States military issued identification or other form of
93 identification included under 18 U.S.C. § 701, in which case the person involved in the transaction shall
94 be required to present an alternate government-issued identification card bearing a photograph of such
95 person or the pawnbroker shall be required to take a photograph of the person involved in the
96 transaction;

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

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

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

104 C. For each loan or transaction, a pawnbroker may charge:

105 1. A service fee for making the daily electronic reports to the appropriate law-enforcement officers
106 required by § 54.1-4010, creating and maintaining the electronic records required under this section, and
107 investigating the legal title to property being pawned or pledged or purchased. Such fee shall not exceed
108 five percent of the amount loaned on such item or paid by the pawnbroker for such item or \$3,
109 whichever is less; and

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

112 Any ~~natural~~ person violating any of the provisions of this section is guilty of a Class 4 misdemeanor.

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

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

118 The Superintendent of State Police shall promulgate regulations specifying the nature of identifying
119 credentials of the person pawning, pledging, or selling the goods, article, or thing. Such credentials shall
120 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 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 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 the second enactment of Chapter 238 of the Acts of Assembly of 2019 is repealed.