

Senate Bill No. 332

(By Senators Snyder, Green, Klempa, McCabe, Williams, Wills,
Plymale, Foster, Yost and Beach)

[Introduced January 18, 2012; referred to the Committee on
Government Organization; and then to the Committee on Finance.]

**Interim
Bill**

**FISCAL
NOTE**

A BILL to amend the Code of West Virginia, 1931, as amended, by
adding thereto a new section, designated §61-3-49b, relating
to the registration of pawnbrokers; requiring pawnbrokers to
keep certain records; requiring pawnbrokers to obtain specific
identification information for certain transactions; requiring
pawnbrokers to submit certain information to law-enforcement
agencies; providing that information obtained by pawnbrokers
is to be kept confidential; requiring the State Police to
maintain database of information received from pawnbrokers;
specifying duration pawnbrokers and law-enforcement agencies
are to retain information for three years; defining terms;
establishing penalties; and providing rule-making authority.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended
2 by adding thereto a new section, designated §61-3-49b, to read as
3 follows:

4 **ARTICLE 3. CRIMES AGAINST PROPERTY.**

5 **§61-3-49b. Registration of pawnbrokers; records and reports of**
6 **pawn transactions; criminal penalties.**

7 (a) For the purpose of this section, the following terms have
8 the following meanings:

9 (1) "Pawn ticket" means the written record of a pawn
10 transaction. Pawn tickets shall be serially numbered for the
11 purpose of identification.

12 (2) "Pawn transaction" means a transaction in which the
13 pawnbroker:

14 (A) Lends money on the pledge of personal property, other than
15 a security or printed evidence of indebtedness;

16 (B) Purchases personal property on the express or implied
17 agreement or understanding of selling it back to the pledgor for a
18 fixed or variable price within a fixed or variable time; or

19 (C) Purchases any item of personal property.

20 (3) "Pawnbroker" means a person or business entity, or any
21 agent or employee thereof, that is engaged or participates in the
22 business of purchasing tangible personal property on the condition
23 that the goods or tangible personal property may be redeemed or

1 repurchased by the pledgor for a fixed or variable price within a
2 fixed or variable time period.

3 (4) "Pledgor" means the person leaving the personal property
4 with the pawnbroker and executing a pawn ticket.

5 (5) "Redeem" means the act of the pledgor or pledgor's agent
6 of retrieving and paying in full all charges and fees for the
7 pledged goods or tangible personal property left with a pawnbroker.

8 (b) A pawnbroker shall make a complete and accurate pawn
9 ticket for every pawn transaction. A separate pawn ticket shall be
10 made for each item and each pawn ticket shall include:

11 (1) The full name, permanent home address and business
12 address, and telephone number of the pledgor;

13 (2) The pledgor's date of birth;

14 (3) The pledgor's driver's license number;

15 (4) An accurate, legible description of each item pledged or
16 sold, including the manufacturer's name, model number, serial
17 number, caliber, size, color, and type of item, as well as any
18 owner applied number, inscription or monogram; and

19 (5) The date and time of the pawn transaction.

20 (c) The pledgor and pawnbroker shall each sign the pawn
21 ticket. The pledgor shall also attest to the following statement
22 that shall appear on the pawn ticket in bold face type: "All
23 information contained within this pawn ticket is complete and

1 accurate. I am the owner of the goods described in this pawn ticket
2 or I am authorized to enter into this transaction on behalf of the
3 owner of the goods described in this pawn ticket. I understand that
4 I will face criminal penalties if the information in this pawn
5 ticket is not complete and accurate, if I am not the owner of the
6 goods described herein, or if I am not authorized to enter into the
7 pawn transaction on behalf of the owner of the goods.”

8 (d) The pawnbroker shall obtain a photocopy of a valid
9 driver’s license or identification card issued by the West Virginia
10 Division of Motor Vehicles of the pledgor, or in lieu thereof, any
11 other valid photo identification of the pledgor issued by any other
12 state or the federal government, and verify the pledgor’s identity.
13 The pawnbroker shall attach the photocopy to the pawn ticket.

14 (e) A pawnbroker shall individually tag each item involved in
15 the pawn transaction so that it corresponds with the pawn ticket
16 number.

17 (f) Each pawn ticket shall be retained by a pawnbroker for a
18 period of three years following the date of the pawn transaction.
19 Upon completion of the pawn transaction, the pawn ticket shall be
20 available for inspection by any law-enforcement officer or, upon
21 written request and during the pawnbroker’s regular business hours,
22 by any investigator employed by a public utility or railroad to
23 investigate the theft of public utility or railroad property:

1 *Provided*, That nothing contained herein precludes a pawnbroker from
2 filing the pawn ticket or the information contained therein with
3 the local detachment of the State Police on a form designated by
4 the State Police.

5 (g) Commencing July 1, 2013, all pawnbrokers shall register
6 with the State Police and submit the pawn ticket information to the
7 State Police in accordance with the legislative rules promulgated
8 pursuant to this section.

9 (h) On or before July 30, 2012, the State Police shall propose
10 rules for legislative approval, in accordance with article three,
11 chapter twenty-nine-a of this code, to implement this section,
12 including:

13 (1) The manner and method, whether electronic or otherwise,
14 that pawnbrokers are to submit pawn ticket information to the State
15 Police;

16 (2) The time and frequency that pawnbrokers are to submit pawn
17 ticket information to the State Police;

18 (3) Provisions that require the State Police to share the pawn
19 ticket information with other law-enforcement agencies;

20 (4) A registration system, whether electronic or otherwise,
21 that provides for pawnbrokers to be registered on and after July 1,
22 2013;

23 (5) A registration fee that shall be used for the

1 administration of this section; and

2 (6) Provisions that require all payments made by a pawnbroker
3 to a pledgor be made by check.

4 (i) The State Police may promulgate emergency rules pursuant
5 to section fifteen, article three, chapter twenty-nine-a of this
6 code, to implement this section.

7 (j) The information required to be collected by a pawnbroker
8 pursuant to this section is confidential, is not public record, and
9 should only be disclosed as provided in this section or otherwise
10 provided by law: *Provided*, That the confidential nature of this
11 information is no way impedes the pawnbrokers duty to accurately
12 collect and timely provide the information to the State Police.

13 (k) Any law-enforcement officer may review the pawn ticket to
14 aid in the officer's investigation of stolen property.

15 (l) Upon the entry of a final determination and order by a
16 court of competent jurisdiction, personal property found to have
17 been misappropriated, stolen or taken under false pretenses may be
18 returned to the proper owner.

19 (m) The State Police may suspend or revoke the registration of
20 any pawnbroker who fails to properly register with the State
21 Police, fails to timely provide pawn ticket information to the
22 State Police, or violates any other provision of this section.

23 (n) A pledgor who falsely affirms ownership in a pawn

1 transaction is guilty of obtaining money, property and services by
2 false pretenses and subject to the penalties of section twenty-
3 four, article three, chapter sixty-one of this code.

4 (o) A pawnbroker who violates this article is guilty of a
5 misdemeanor and, shall be fined not less than \$100 and not more
6 than \$200 for each offense.

7 (p) This section does not apply to:

8 (1) Banks, credit unions, savings and loan associations or
9 finance companies regulated by the Division of Banking; or

10 (2) A transaction by a pawnbroker directly from a manufacturer
11 or wholesaler with an established place of business.

NOTE: The purpose of this bill is to require pawnbrokers to register with the State Police and collect certain information from their customers. The bill also gives rule making authority to the State Police to direct how pawnbrokers are to submit information collected to the State Police.

This section is new; therefore, strike-throughs and underscoring have been omitted.

This bill is an interim bill recommended for introduction and passage during the Regular Session of the Legislature by the Joint Standing Committee on Government Organization.