

REFERENCE TITLE: pawnbroker licensure; DPS

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2690

Introduced by
Representative Gowan

AN ACT

AMENDING SECTIONS 44-1621, 44-1624, 44-1625, 44-1627, 44-1628 AND 44-1629, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 11, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 44-1633; RELATING TO PAWNBROKERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 44-1621, Arizona Revised Statutes, is amended to
3 read:
4 44-1621. Definitions
5 In this article, unless the context otherwise requires:
6 ~~1. "Designee" means a local law enforcement agency designated in~~
7 ~~writing by a county sheriff to perform designated duties specified in this~~
8 ~~article on behalf of the sheriff.~~
9 1. "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC SAFETY.
10 2. "Identification document" means a valid driver license, a valid
11 nonoperating identification license, a valid armed forces identification card
12 or any other valid government issued photo identification.
13 3. "Loan" means advancing money on the security of pledged goods or
14 purchasing tangible personal property on the condition that it may be
15 redeemed or repurchased by the seller for a fixed or variable price within a
16 fixed or variable period of time.
17 ~~4. "Local law enforcement agency" means the chief of police, the~~
18 ~~police department or the town marshal, if applicable to a city or town, or~~
19 ~~the county sheriff, the sheriff's designee or the county sheriff's~~
20 ~~department, if applicable to a county.~~
21 ~~5.~~ 4. "Maturity date" means the date specified on the pawn ticket by
22 which the pledged goods must be redeemed or the pawn ticket must be renewed.
23 ~~6.~~ 5. "Misrepresentation" means a false or misleading representation
24 made by a person with an intent to deceive or defraud.
25 ~~7.~~ 6. "Omission" means a failure to include or to take notice of or
26 the leaving out of pertinent information by a person with an intent to
27 mislead.
28 ~~8.~~ 7. "Pawn ticket" means the actual executed document that records
29 the pawn transaction and describes the conditions of the loan agreement
30 between the pawnbroker and pledgor.
31 ~~9.~~ 8. "Pawn transaction" means either the act between the pawnbroker
32 and a person pledging tangible personal property or extending credit on the
33 security of pledged goods or the act of purchasing tangible personal property
34 with an express or implied agreement or understanding that it may be redeemed
35 or repurchased by the seller for a fixed or variable price within a fixed or
36 variable period of time, except that a good faith outright purchase of
37 tangible personal property is not a pawn transaction.
38 ~~10.~~ 9. "Pawnbroker" means a person who is engaged in the business of
39 advancing money on the security of pledged goods or is engaged in the
40 business of purchasing tangible personal property on the condition that it
41 may be redeemed or repurchased by the seller for a fixed or variable price
42 within a fixed or variable period of time.
43 ~~11.~~ 10. "Pawnshop" means the location or premises at which a
44 pawnbroker is licensed to regularly conduct the pawnbroker's business.

1 ~~12.~~ 11. "Pledged goods" means tangible personal property ~~which~~ THAT is
2 deposited with or otherwise actually delivered into the possession of a
3 pawnbroker in the course of the pawnbroker's business in connection with the
4 pawn transaction.

5 ~~13.~~ 12. "Pledgor" means the person leaving the personal property with
6 the pawnbroker and executing the pawn ticket.

7 ~~14.~~ 13. "Redeem" or "redemption" means the act of the pledgor or the
8 pledgor's agent of retrieving and paying in full all charges and fees for the
9 pledged goods left with the pawnshop.

10 ~~15.~~ 14. "Reportable transaction" means any transaction conducted by a
11 pawnbroker in which merchandise is received through a pawn, purchase, trade
12 or consignment.

13 ~~16.~~ 15. "Transaction date" means the initial date of the reportable
14 transaction.

15 Sec. 2. Section 44-1624, Arizona Revised Statutes, is amended to read:
16 ~~44-1624.~~ Pawn transactions; reportable transactions

17 A. The length of all pawn transactions is a minimum of ninety days,
18 except that a longer term may be contracted for between the pawnbroker and
19 the pledgor.

20 B. A pawnbroker shall not enter into a pawn transaction or good faith
21 outright purchase of tangible personal property with a person who is less
22 than eighteen years of age.

23 C. A pawnbroker shall not enter into a pawn transaction or good faith
24 outright purchase of tangible personal property that has a manufacturer's
25 serial number that has been removed, altered or obliterated.

26 D. Before entering into a pawn transaction or good faith outright
27 purchase of tangible personal property a pawnbroker shall require the pledgor
28 or seller to identify himself with an identification document sufficient to
29 verify the information required pursuant to section 44-1625.

30 E. A pawnbroker shall retain any pledged goods at the pawnbroker's
31 place of business or any other storage location approved by the ~~applicable~~
32 ~~local law enforcement agency~~ DEPARTMENT.

33 F. The pawnbroker shall retain any property obtained by good faith
34 outright purchase in its original form for twenty days after the original
35 transaction date at the pawnbroker's place of business or other storage
36 location approved by the ~~applicable local law enforcement agency~~ DEPARTMENT.

37 G. The pawnbroker shall maintain at the pawnbroker's place of business
38 records of all reportable transactions and pawn tickets and shall retain the
39 records for at least two years after the date when the transaction occurred.
40 The pawnbroker shall ensure that the records include accurate copies of all
41 transaction receipts or pawn tickets. On request by ~~a local law enforcement~~
42 ~~agent in the course of the agent's duties~~ THE DEPARTMENT, the pawnbroker
43 shall allow the ~~agent~~ DEPARTMENT to inspect the pawnbroker's receipts, pawn
44 tickets or required alcohol, tobacco and firearms logs or to review any
45 article received by the pawnbroker by pledge, purchase or trade.

1 H. A pawnbroker shall produce the pawnbroker's register, shall exhibit
2 all articles received by the pawnbroker in pledge or purchase or shall
3 produce the pawnbroker's account of sales to ~~a local law enforcement agency~~
4 THE DEPARTMENT on the ~~agency's~~ DEPARTMENT'S request to inspect the register,
5 articles or accounts of sales of the pawnbroker or on service of a search
6 warrant or order issued by a judge or magistrate.

7 Sec. 3. Section 44-1625, Arizona Revised Statutes, is amended to read:
8 44-1625. Reports

9 A. A pawnbroker shall make a true, complete and accurate report each
10 day of each article the pawnbroker receives through a reportable
11 transaction. The report shall be delivered within two business days to the
12 ~~sheriff or the sheriff's designee of the county in which the pawnbroker is~~
13 ~~licensed~~ DEPARTMENT by mail, hand delivery or electronic means as approved by
14 the ~~sheriff or the sheriff's designee~~ DEPARTMENT. For the purposes of this
15 subsection, "electronic means" means a computer diskette or modem.

16 B. The pawnbroker shall make the report of each item received through
17 a reportable transaction on the form provided or approved by the ~~sheriff or~~
18 ~~the sheriff's designee~~ DEPARTMENT.

19 C. The report form provided or approved by the ~~sheriff or his designee~~
20 DEPARTMENT shall include at least all of the following:

21 1. The last, first and middle name of the pledgor or seller.

22 2. The permanent address and telephone number, if applicable, of the
23 pledgor or seller.

24 3. The physical description of the pledgor or seller including height,
25 weight, hair and eye color, sex, race and date of birth.

26 4. The number and type of the identification document presented by the
27 pledgor or seller.

28 5. An accurate, legible description of each item pledged or sold,
29 including the manufacturer's name, model number, serial number, caliber,
30 size, type of item and any owner applied number, inscription or monogram.

31 6. The pawnbroker's name and address and the clerk's initials or
32 identifying number.

33 7. The date and time of the initial pawn or purchase transaction.

34 8. The type of transaction and initial pawn ticket number.

35 9. A fingerprint of the pledgor or seller.

36 D. The pledgor or seller shall sign the report and attest to the
37 following statement that shall appear on the report in ~~ten-point~~ TEN-POINT
38 bold type:

39 All information in this report is complete and accurate. I am
40 the owner of the goods described in this report or I am
41 authorized to enter into this pawn or sale transaction on behalf
42 of the owner of the goods described in this report. I
43 understand that I will be guilty of a class 1 misdemeanor if the
44 information in this report is not complete and accurate, if I am
45 not the owner of the goods pledged or sold or if I am not

1 authorized to enter into the pawn or sale transaction on behalf
2 of the owner of the goods.

3 Sec. 4. Section 44-1627, Arizona Revised Statutes, is amended to read:
4 44-1627. Licensing; requirements

5 A. A person shall not act as a pawnbroker until licensed by the
6 ~~sheriff of the county in which the person regularly conducts business~~
7 DEPARTMENT PURSUANT TO THIS ARTICLE AND RULES ADOPTED BY THE DEPARTMENT.

8 B. A pawnbroker shall obtain a separate license for each pawnshop
9 owned by that pawnbroker.

10 C. A pawnbroker license may not be sold or transferred without the
11 approval of the ~~sheriff or the sheriff's designee~~ DEPARTMENT.

12 D. A pawnbroker shall not conduct business at a location other than a
13 licensed location except for firearms transactions that are permitted by a
14 federally licensed firearms dealer at an organized gun show.

15 E. Every pawnbroker shall be a bona fide resident of this state. If a
16 partnership, each partner shall be a bona fide resident of this state. If a
17 corporation, it shall be a domestic corporation or a foreign corporation
18 ~~which~~ THAT has qualified to do business in this state. The corporation shall
19 hold its pawnbroker license through an agent.

20 F. The ~~sheriff or the sheriff's designee~~ DEPARTMENT shall require any
21 person, other than a bank or licensed lending institution, having any
22 interest, directly or indirectly, in a pawnshop to submit a full set of
23 fingerprints, together with the applicable fingerprint processing fee, to the
24 ~~sheriff. The sheriff shall submit the fingerprints to the~~ department of
25 ~~public safety~~ for the purpose of obtaining a state and federal criminal
26 records check pursuant to section 41-1750 and Public Law 92-544. The
27 department of ~~public safety~~ may exchange this fingerprint data with the
28 federal bureau of investigation. ~~The sheriff shall forward the fee to the~~
29 ~~department of public safety.~~

30 G. A corporation shall own the entire equitable interest in its
31 license through an agent if the agent is otherwise qualified to hold a
32 pawnbroker license. The agent is subject to the penalties prescribed for any
33 violation of law relating to pawnbrokers. On the death, resignation or
34 discharge of an agent of a corporation holding a pawnbroker license, the
35 corporation shall promptly assign the license to another qualified agent
36 selected by the corporation.

37 H. The ~~sheriff~~ DEPARTMENT shall not issue a license to a person who,
38 within one year before the application, has violated any provision of a
39 previously issued pawnbroker license or has had a license revoked. The
40 ~~sheriff~~ DEPARTMENT shall not issue to or renew a license of a person who,
41 within five years before the application, has been convicted of a felony
42 involving trafficking in stolen property, fraudulent schemes, forgery, theft,
43 extortion or conspiracy to defraud or a felony involving moral turpitude.
44 The ~~sheriff~~ DEPARTMENT shall not issue to or renew a license of a corporation
45 unless it has on file ~~with the sheriff of the county in which the license is~~

1 ~~issued~~ a list of its officers and directors and any stockholders who own ten
2 ~~per-cent~~ PERCENT or more of the corporation. The ~~sheriff~~ DEPARTMENT shall
3 not issue to or renew a license of a corporation if any of its officers or
4 directors or any stockholder who owns ten ~~per-cent~~ PERCENT or more of the
5 corporation has within five years been convicted of a felony involving
6 trafficking in stolen property, fraudulent schemes, forgery, theft, extortion
7 or conspiracy to defraud or a felony involving moral turpitude.

8 I. The ~~sheriff~~ DEPARTMENT shall not issue a license to a person or
9 corporation that has knowingly made any false statements or material
10 misrepresentations in the license application.

11 J. A person shall not use the word "pawn", "pawnshop" or "pawnbroker"
12 in its business name, on any sign or in any advertisement unless the person
13 is licensed as a pawnbroker pursuant to this article.

14 Sec. 5. Section 44-1628, Arizona Revised Statutes, is amended to read:
15 44-1628. Revocation and suspension

16 A. After notice and an opportunity for a hearing in accordance with
17 title 41, chapter 6, article ~~6- 10~~, the ~~sheriff~~ DEPARTMENT may suspend any
18 license for a period of not more than thirty days for acts that demonstrate a
19 pattern of misrepresentation or wilful omissions or a violation of or
20 noncompliance with any provision of this article other than a violation or
21 noncompliance resulting from a bona fide error that occurred provided that
22 the pawnshop maintains procedures reasonably adapted to avoid the occurrence
23 of bona fide errors. The ~~sheriff or the sheriff's designee~~ DEPARTMENT shall
24 provide procedures for the redemption of pledged goods and the renewal of
25 pawn transactions on maturity during a period when a license is suspended.
26 For the purposes of this subsection, "bona fide error" includes clerical,
27 calculation, computer malfunction, programming and printing errors and other
28 similar errors.

29 B. The ~~sheriff~~ DEPARTMENT may revoke or refuse to renew a license if
30 more than two suspensions of the license have occurred within the preceding
31 twelve calendar months or if the licensee has been convicted of a felony
32 involving trafficking in stolen property, fraudulent schemes, forgery, theft,
33 extortion or conspiracy to defraud or a felony involving moral turpitude.

34 C. Decisions of the ~~sheriff or the sheriff's designee~~ DEPARTMENT are
35 subject to judicial review pursuant to title 12, chapter 7, article 6.

36 Sec. 6. Section 44-1629, Arizona Revised Statutes, is amended to read:
37 44-1629. Fees; penalty

38 A. A person applying for a new pawnbroker license shall pay an
39 application fee of one thousand dollars to the ~~sheriff of the county in which~~
40 ~~the pawnbroker is to be licensed~~ DEPARTMENT.

41 B. Each licensed pawnbroker shall pay a renewal fee of five hundred
42 dollars annually to the ~~sheriff of the county in which the pawnbroker is~~
43 ~~licensed~~ DEPARTMENT. The annual renewal fee is due not later than January
44 31.

1 C. A licensee who fails to renew his license within thirty days after
2 the payment of the license fee is due is subject to a penalty of ten ~~per cent~~
3 PERCENT of the license fee which is payable with the license fee.

4 D. THE DIRECTOR OF THE DEPARTMENT SHALL DEPOSIT, PURSUANT TO SECTIONS
5 35-146 AND 35-147, MONIES COLLECTED PURSUANT TO THIS SECTION IN THE
6 DEPARTMENT OF PUBLIC SAFETY PAWNBROKER LICENSING FUND ESTABLISHED BY SECTION
7 44-1633.

8 Sec. 7. Title 44, chapter 11, article 3, Arizona Revised Statutes, is
9 amended by adding section 44-1633, to read:

10 44-1633. Department of public safety pawnbroker licensing fund

11 A. THE DEPARTMENT OF PUBLIC SAFETY PAWNBROKER LICENSING FUND IS
12 ESTABLISHED CONSISTING OF MONIES COLLECTED PURSUANT TO SECTION 44-1629.

13 B. THE DIRECTOR OF THE DEPARTMENT SHALL ADMINISTER THE FUND. MONIES
14 IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE DIRECTOR TO COVER THE
15 OPERATIONAL AND EQUIPMENT COSTS OF REGULATING THE PAWNBROKER INDUSTRY.