

By: Guice

To: Judiciary B

HOUSE BILL NO. 66

1 AN ACT TO AMEND SECTION 75-67-305, MISSISSIPPI CODE OF 1972,
 2 TO REVISE THE INFORMATION REQUIRED TO BE RECORDED ON PAWN TICKETS;
 3 TO AMEND SECTION 75-67-309, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
 4 THE USE OF ELECTRONIC TRANSMISSION FOR RECORDS; TO AMEND SECTION
 5 75-67-315, MISSISSIPPI CODE OF 1972, TO REVISE THE LIST OF
 6 PROHIBITED ACTS OF PAWNBROKERS; TO AMEND SECTION 75-67-329,
 7 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE CONFISCATION OF GOODS
 8 WITHOUT AN ARREST WARRANT; TO AMEND SECTION 75-67-335, MISSISSIPPI
 9 CODE OF 1972, TO PROVIDE FOR RESTITUTION TO PAWNBROKERS; AND FOR
 10 RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 SECTION 1. Section 75-67-305, Mississippi Code of 1972, is
 13 amended as follows:

14 75-67-305. At the time of making the pawn or purchase
 15 transaction, the pawnbroker shall enter upon the pawn ticket a
 16 record of the following information which shall be recorded on the
 17 receipt:

18 (a) A clear and accurate description of the property,
 19 including the following:

- 20 (i) Brand name;
- 21 (ii) Model number;
- 22 (iii) Serial number;
- 23 (iv) Size;
- 24 (v) Color, as apparent to the untrained eye;
- 25 (vi) Precious metal type, weight and content, if

26 known;

27 (vii) Gemstone description, including the number
28 of stones;

29 (viii) In the case of firearms, the type of
30 action, caliber or gauge, number of barrels, barrel length and
31 finish; and

32 (ix) Any other unique identifying marks, numbers,
33 names or letters;

34 (b) The name, residence address and date of birth of
35 pledgor or seller;

36 (c) Date of pawn or purchase transaction;

37 (d) Driver's license number or social security number or
38 Mississippi identification card number, as defined in Section
39 45-35-1, Mississippi Code of 1972, of the pledgor or seller or
40 identification information verified by at least two (2) forms of
41 identification, one (1) of which shall be a photographic
42 identification;

43 (e) Description of the pledgor including approximate
44 height, sex and race, and a right or left inked thumbprint
45 recorded on the original receipt;

46 (f) Amount of cash advanced;

47 (g) The maturity date of the pawn transaction and the
48 amount due; and

49 (h) The monthly rate and pawn charge.

50 SECTION 2. Section 75-67-309, Mississippi Code of 1972, is
51 amended as follows:

52 75-67-309. (1) The pledgor or seller shall sign a statement
53 verifying that the pledgor or seller is the rightful owner of the
54 goods or is entitled to sell or pledge the goods and shall receive
55 an exact copy of the pawn ticket which shall be signed or
56 initialed by the pawnbroker or any employee of the pawnbroker.

57 (2) The pawnbroker shall maintain a record of all
58 transactions of pledged or purchased goods on the premises. A
59 pawnbroker shall upon request provide to the appropriate law
60 enforcement agency a complete record of all transactions. These
61 records shall be a correct copy of the entries made of the pawn or
62 purchase transaction, except as to the amount of cash advanced or
63 paid for the goods and monthly pawnshop charge. If the
64 appropriate law enforcement agency supplies the appropriate
65 software, all transactions shall be delivered by means of
66 electronic transmission through a modem or similar device or by
67 delivery of a computer disk to the appropriate law enforcement
68 agency within seventy-two (72) hours of the transaction.

69 (3) All goods purchased across the counter by the pawnbroker
70 shall be maintained on the premises by the pawnbroker for at least
71 thirty (30) calendar days before such goods can be offered for
72 resale.

73 SECTION 3. Section 75-67-315, Mississippi Code of 1972, is
74 amended as follows:

75 75-67-315. A pawnbroker and any clerk, agent or employee of
76 such pawnbroker shall not:

77 (a) Fail to make an entry of any material matter in his
78 record book;

79 (b) Make any false entry therein;

80 (c) Falsify, obliterate, destroy or remove from his
81 place of business such records, books or accounts relating to the
82 licensee's pawn transaction;

83 (d) Refuse to allow the commissioner, the appropriate
84 law enforcement agency, the Attorney General or any other duly

85 authorized state or federal law enforcement officer to inspect his
86 pawn records or any pawn goods in his possession during the
87 ordinary hours of business or other acceptable time to both
88 parties;

89 (e) Fail to maintain a record of each pawn transaction
90 for four (4) years;

91 (f) Accept a pledge or purchase property from a person
92 under the age of eighteen (18) years;

93 (g) Make any agreement requiring the personal liability
94 of a pledgor or seller, or waiving any of the provisions of this
95 act or providing for a maturity date less than thirty (30) days
96 after the date of the pawn transaction;

97 (h) Fail to return or replace pledged goods to a
98 pledgor or seller upon payment of the full amount due the
99 pawnbroker unless the pledged goods have been taken into custody
100 by a court or a law enforcement officer or agency;

101 (i) Sell or lease, or agree to sell or lease, pledged
102 or purchased goods back to the pledgor or back to the seller in
103 the same or related transaction;

104 (j) Sell or otherwise charge for insurance in
105 connection with a pawn transaction;

106 (k) Remove pledged goods from the premises within
107 thirty (30) days following the originally fixed maturity date;

108 (l) Accept pledged or purchased property from a person
109 obviously under the influence of intoxicants at the time;

110 (m) Accept a pledge or purchase property when such
111 property has manufacturer's serial numbers which have been removed
112 and or obliterated;

113 (n) All merchandise which has been pledged or purchased
114 by the pawnbroker shall be recorded on a receipt at the time of
115 resale which lists the purchaser. The purchaser shall be
116 identified on receipt by the means set forth in Section 75-67-305,
117 as well as an accurate description of the property as set forth in
118 Section 75-67-305, as well as the resale amount paid by the
119 purchaser.

120 SECTION 4. Section 75-67-329, Mississippi Code of 1972, is
121 amended as follows:

122 75-67-329. (1) No pledged or purchased goods can be
123 confiscated without specifically accomplishing the following
124 actions:

125 (a) A police report being made in a timely manner;

126 (b) A warrant sworn out for the person who pledged or
127 sold the goods to the pawnbroker; * * *

128 (c) A theft report, or a National Crime Information
129 Center (NCIC) report, identifying the merchandise to be
130 confiscated along with a request for restitution, pursuant to law;
131 and

132 (d) Pledged or purchased goods may also be confiscated
133 without an arrest warrant because of time limitations if listed by
134 NCIC as stolen property. Restitution in these cases shall be paid
135 by the pledgor to the pawnbroker.

136 (2) Pledged or purchased goods can be put on a one-time
137 seven-day hold by the authorized law enforcement authorities.

138 (3) Confiscated merchandise shall be returned to the
139 pawnbroker by the law enforcement authorities as soon as possible
140 when determined that the merchandise has no rightful owner.

141 SECTION 5. Section 75-67-335, Mississippi Code of 1972, is
142 amended as follows:

143 75-67-335. If any pledged goods from a pawn transaction are
144 found to be stolen goods and are returned to the rightful owner by
145 law enforcement authorities and if the licensee who accepted such
146 pledged goods has complied with all of the duties and
147 responsibilities as specified in this article during such
148 transaction, then the rightful owner of such pledged goods shall
149 be liable to the licensee for the pledged amount if the rightful
150 owner fails to prosecute or cooperate in the criminal prosecution
151 related to such pawn transaction, provided that the rightful owner
152 can prove that the stolen goods are his. It shall also be the
153 responsibility of the licensee to assist or cooperate in the
154 criminal prosecution related to such pawn transaction. Upon
155 successful criminal prosecution, restitution shall be awarded to
156 the pawnbroker by the criminal court at the time of the
157 defendant's sentencing. If the identity of a person who pawned
158 stolen goods can be determined, the district attorney may
159 prosecute such person for any applicable criminal violations.

160 SECTION 6. This act shall take effect and be in force from
161 and after July 1, 2000.