

By: Representatives Shows, Staples

To: Banking and Financial Services

HOUSE BILL NO. 1169

1 AN ACT TO AMEND SECTIONS 75-67-305 AND 75-67-309, MISSISSIPPI
2 CODE OF 1972, TO REQUIRE PAWNBROKERS TO MAINTAIN RECORDS OF PAWN
3 TRANSACTIONS IN ELECTRONIC FORMAT, TO OBTAIN A THUMBPRINT OF THE
4 PLEDGOR OR SELLER OF PLEDGED OR SOLD ITEMS AND TO PHOTOCOPY THE
5 PLEDGOR OR SELLER'S PHOTOGRAPHIC IDENTIFICATION; TO AMEND SECTIONS
6 75-67-333 AND 75-67-325, MISSISSIPPI CODE OF 1972, TO REVISE THE
7 PENALTIES PROVIDED FOR OFFENSES COMMITTED BY PAWNBROKERS; AND FOR
8 RELATED PURPOSES.

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

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

12 75-67-305. (1) At the time of making the pawn or purchase
13 transaction, the pawnbroker shall enter upon the pawn ticket a
14 record of the following information which shall be typed or
15 written in ink and in the English language:

16 (a) A clear and accurate description of the property,
17 including the following:

18 (i) Brand name;

19 (ii) Model number;

20 (iii) Serial number;

21 (iv) Size;

22 (v) Color, as apparent to the untrained eye;

23 (vi) Precious metal type, weight and content, if
24 known;

25 (vii) Gemstone description, including the number
26 of stones;

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

30 (ix) Any other unique identifying marks, numbers,
31 names or letters;

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

34 (c) Date of pawn or purchase transaction;

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

41 (e) Description of the pledgor including approximate
42 height, sex and race;

43 (f) Amount of cash advanced;

44 (g) The maturity date of the pawn transaction and the
45 amount due; and

46 (h) The monthly rate and pawn charge. Such rates and
47 charges shall be disclosed using the requirements prescribed in
48 Regulation Z (Truth in Lending) of the rules and regulations of
49 the Board of Governors of the Federal Reserve.

50 (2) Each pawn or purchase transaction document shall be
51 consecutively numbered and entered in a corresponding log or
52 record book. Separate logs or record books for pawn and purchase
53 transactions shall be kept.

54 (3) Records may be maintained by licensees in the form of
55 traditional hard copies; however, every licensee shall store all
56 of the information required by this section in a format commonly
57 described as electronic, imaged, magnetic, microphotographic or
58 otherwise which is readily accessible for viewing on a screen with
59 the capability of being promptly printed upon request.

60 (4) At the time of making the pawn or purchase transaction,
61 the pawnbroker shall obtain a thumbprint of the pledgor or seller
62 and shall make a photocopy or electronic image of the pledgor or

63 seller's photographic identification. The licensee shall keep and
64 maintain these items as part of the records of the pawn or
65 purchase transaction and make them available to law enforcement
66 agencies upon request.

67 (5) Every licensee shall maintain a record which indicates
68 the total number of accounts and the total dollar value of all
69 pawn transactions outstanding as of December 31 of each year.

70 **SECTION 2.** Section 75-67-309, Mississippi Code of 1972, is
71 amended as follows:

72 75-67-309. (1) The pledgor or seller shall sign a statement
73 verifying that the pledgor or seller is the rightful owner of the
74 goods or is entitled to sell or pledge the goods and shall receive
75 an exact copy of the pawn ticket which shall be signed or
76 initialed by the pawnbroker or any employee of the pawnbroker.

77 (2) The pawnbroker shall maintain a record of all
78 transactions of pledged or purchased goods on the premises in a
79 format of storage commonly described as electronic, imaged,
80 magnetic, microphotographic or otherwise which is readily
81 accessible for viewing on a screen with the capability of being
82 promptly printed upon request. A pawnbroker shall upon request
83 provide to the appropriate law enforcement agency a complete
84 record of all transactions, including the thumbprint of the
85 pledgor or seller and a photocopy or electronic image of the
86 pledgor or seller's photographic identification. These records
87 shall be a correct copy of the entries made of the pawn or
88 purchase transaction, except as to the amount of cash advanced or
89 paid for the goods and monthly pawnshop charge. * * * All
90 transactions shall be made available by means of electronic
91 transmission through a modem or similar device or by providing a
92 computer disc to the law enforcement agency within seventy-two
93 (72) hours of the transaction. * * *

94 (3) All goods purchased across the counter by the pawnbroker
95 shall be maintained on the premises by the pawnbroker for at least
96 fourteen (14) calendar days * * *.

97 **SECTION 3.** Section 75-67-333, Mississippi Code of 1972, is
98 amended as follows:

99 75-67-333. (1) Except for an offense as described in
100 subsection (2) or (3) of this section, any licensee or employee
101 who willfully violates any provision of this article, in addition
102 to any other penalty which may be applicable, shall be guilty of a
103 misdemeanor and upon conviction thereof, shall be punishable by a
104 fine not in excess of One Thousand Dollars (\$1,000.00) per
105 violation * * *.

106 (2) Except for an offense as described in subsection (3) of
107 this section, any licensee or employee who willfully makes a false
108 entry in any record specifically required by this article, in
109 addition to any other penalty which may be applicable, shall be
110 punished, upon conviction, as follows:

111 (a) For a first offense, by a fine not in excess of One
112 Thousand Dollars (\$1,000.00) for each offense;

113 (b) For a second offense, the offenses being committed
114 within a period of five (5) years, by a fine not in excess of Five
115 Thousand Dollars (\$5,000.00), by imprisonment in the county jail
116 for not more than thirty (30) days, or by both such fine and
117 imprisonment;

118 (c) For a third or subsequent offense, the offenses
119 being committed within a period of five (5) years, by a fine not
120 in excess of Ten Thousand Dollars (\$10,000.00), by imprisonment in
121 the custody of the State Department of Corrections for a term of
122 not more than five (5) years, or by both such fine and
123 imprisonment.

124 (3) * * * In addition to any other penalty which may be
125 applicable, any licensee or employee who fails to make a record of

126 a pawnshop transaction and subsequently sells or disposes of the
127 pledged goods from such transaction shall be punished as follows:

128 (a) For a first offense, the licensee or employee
129 shall be guilty of a misdemeanor and upon conviction thereof,
130 shall be punishable by a fine not in excess of One Thousand
131 Dollars (\$1,000.00) or by imprisonment in the county jail for not
132 more than one (1) year, or both fine and imprisonment;

133 (b) For a second offense, the offenses being
134 committed within a period of five (5) years, the licensee or
135 employee shall be guilty of a felony and upon conviction thereof,
136 shall be punishable by a fine not in excess of Five Thousand
137 Dollars (\$5,000.00) or by imprisonment in the custody of the State
138 Department of Corrections for a term not less than one (1) year
139 nor more than five (5) years, or by both fine and imprisonment.

140 (4) (a) Any licensee convicted in the manner provided
141 in * * * subsection (2) or (3) of this section shall forfeit the
142 surety bond or deposit required in Section 75-67-323 and the
143 amount of such bond or deposit shall be credited to the budget of
144 the state or local agency, which directly participated in the
145 prosecution of such licensee, for the specific purpose of
146 increasing law enforcement resources for that specific state or
147 local agency. Such bond or deposit shall be used to augment
148 existing state and local law enforcement budgets and not to
149 supplant them.

150 (b) In addition to forfeiting the surety bond or
151 deposit as provided under paragraph (a) of this subsection, any
152 licensee convicted of a second, third or subsequent offense under
153 subsection (2) or (3) of this section shall have his license
154 suspended for a period of three (3) years.

155 (5) Compliance with the criminal provisions of this article
156 shall be enforced by the appropriate law enforcement agency who
157 may exercise for such purpose any authority conferred upon such
158 agency by law.

159 (6) When the commissioner has reasonable cause to believe
160 that a person is violating any provision of this article, the
161 commissioner, in addition to and without prejudice to the
162 authority provided elsewhere in this article, may enter an order
163 requiring the person to stop or to refrain from the violation.
164 The commissioner may sue in any circuit court of the state having
165 jurisdiction and venue to enjoin the person from engaging in or
166 continuing the violation or from doing any act in furtherance of
167 the violation. In such an action, the court may enter an order or
168 judgment awarding a preliminary or permanent injunction.

169 (7) The commissioner may, after notice and a hearing, impose
170 a civil penalty against any licensee adjudged by the commissioner
171 to be in violation of the provisions of this article. Such civil
172 penalty shall not exceed Five Hundred Dollars (\$500.00) per
173 violation and shall be deposited into the State General Fund.

174 **SECTION 4.** Section 75-67-325, Mississippi Code of 1972, is
175 amended as follows:

176 75-67-325. (1) The commissioner may, after notice and
177 hearing, suspend or revoke any license if it finds that:

178 (a) The licensee, either knowingly, or without the
179 exercise of due care to prevent the same, has violated any
180 provision of this article;

181 (b) Any fact or condition exists which, if it had
182 existed or had been known to exist at the time of the original
183 application for such license, clearly would have justified the
184 commissioner in refusing such license;

185 (c) The licensee has aided, abetted or conspired with
186 an individual or person to circumvent or violate the requirement
187 of the article;

188 (d) The licensee, or a legal or beneficial owner of the
189 license, has been convicted of a crime that the commissioner finds
190 directly relates to the duties and responsibilities of the
191 occupation of pawnbroker.

192 (2) The commissioner shall, after notice and hearing,
193 suspend the license of any licensee who is convicted of a second,
194 third or subsequent offense under subsection (2) or (3) of Section
195 75-67-333.

196 (3) The commissioner may conditionally license or place on
197 probation a person whose license has been suspended or may
198 reprimand a licensee for a violation of this article.

199 (4) The manner of giving notice and conducting a hearing as
200 required by subsection (1) of this section shall be performed in
201 accordance with Mississippi Administrative Procedures Law, Section
202 25-43-1, et seq., Mississippi Code of 1972.

203 (5) Any licensee may surrender any license by delivering it
204 to the commissioner with written notice of its surrender, but such
205 surrender shall not affect the licensee's civil or criminal
206 liability for acts committed prior thereto.

207 (6) No revocation, suspension or surrender of any license
208 shall impair or affect the obligation of any preexisting lawful
209 contract between the licensee and any pledgor. Any pawn
210 transaction made without benefit of license is void.

211 (7) The commissioner may reinstate suspended licenses or
212 issue new licenses to a person whose license or licenses have been
213 revoked if no fact or condition then exists which clearly would
214 have justified the commissioner in refusing originally to issue a
215 license under this article.

216 (8) The appropriate local law enforcement agency shall be
217 notified of any licensee who has his license suspended or revoked
218 as provided by this article.

219 (9) The Commissioner of Banking shall enforce the provisions
220 of this section.

221 **SECTION 5.** This act shall take effect and be in force from
222 and after July 1, 2004.