

1 HB769
2 79395-1
3 By Representatives Howard, Gordon, Buskey, Hilliard,
4 McCampbell, Warren, Rogers, McClammy, Kennedy, Dunn, Boyd,
5 Coleman, Thomas (J), Moore (M), Scott, Robinson (O) and
6 England
7 RFD: Commerce
8 First Read: 26-APR-07

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8 SYNOPSIS: Under existing state law, specific
9 information is required to be entered on a pawn
10 ticket record including an accurate description of
11 the property and the pledgor.

12 This bill would further require that a
13 photograph be taken of the pledgor and the property
14 at the time of the initial transaction and the
15 identifying photographs be placed in the records of
16 the pawnbroker and held for a minimum of six months
17 from the date of the initial transaction.

18 This bill would provide penalties for
19 failure to take and hold the identifying
20 photographs in addition to other penalties for
21 violation of provisions of the Alabama Pawnshop
22 Act.

23 Amendment 621 of the Constitution of Alabama
24 of 1901 prohibits a general law whose purpose or
25 effect would be to require a new or increased
26 expenditure of local funds from becoming effective
27 with regard to a local governmental entity without

1 enactment by a 2/3 vote unless: it comes within one
2 of a number of specified exceptions; it is approved
3 by the affected entity; or the Legislature
4 appropriates funds, or provides a local source of
5 revenue, to the entity for the purpose.

6 The purpose or effect of this bill would be
7 to require a new or increased expenditure of local
8 funds within the meaning of Amendment 621. However,
9 the bill does not require approval of a local
10 governmental entity or enactment by a 2/3 vote to
11 become effective because it comes within one of the
12 specified exceptions contained in Amendment 621.

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14 A BILL
15 TO BE ENTITLED
16 AN ACT

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18 To amend Sections 5-19A-3, 5-19A-13, and 5-19A-17,
19 Code of Alabama 1975, relating to pawnshops; to require a
20 pawnbroker to take a photograph of a pledgor and the property
21 pledged at the point of the initial transaction; to require
22 the pawnbroker to maintain the photographs in business records
23 for a minimum of six months from the date of the initial
24 transaction; to provide penalties for violations; and in
25 connection therewith would have as its purpose or effect the
26 requirement of a new or increased expenditure of local funds

1 within the meaning of Amendment 621 of the Constitution of
2 Alabama of 1901.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 5-19A-3, 5-19A-13, and 5-19A-17,
5 Code of Alabama 1975, are amended to read as follows:

6 "§5-19A-3.

7 "(a) At the time of making the pawn or purchase
8 transaction, the pawnbroker shall enter on the pawn ticket a
9 record of the following information which shall be typed or
10 written in ink and in the English language:

11 "(1) A clear and accurate description of the
12 property, including model and serial number if indicated on
13 the property.

14 "(2) The name, residence address, and date of birth
15 of the pledgor or seller.

16 "(3) Date of the pawn or purchase transaction.

17 "(4) Type of identification and the identification
18 number accepted from pledgor or seller.

19 "(5) Description of the pledgor including
20 approximate height, sex, and race.

21 "(6) Amount of cash advanced.

22 "(7) The maturity date of the pawn transaction and
23 the amount due.

24 "(8) The monthly rate and pawn charges.

25 "(b) In addition to the information required to be
26 written for the initial transaction of making the pawn, the
27 pawnbroker shall take a clear identifying photograph of the

1 pledgor and the property pledged and maintain the photograph
2 in the business records for a minimum of six months after the
3 initial transaction of making the pawn.

4 "§5-19A-13.

5 "(a) The supervisor may, after notice and hearing,
6 suspend or revoke any license upon a finding that:

7 "(1) The licensee, either knowingly or without the
8 exercise of due care to prevent the same, has violated this
9 chapter.

10 "(2) A fact or condition exists which, if it had
11 existed or had been known to exist at the time of the original
12 application for a license, would have justified the supervisor
13 in refusing a license.

14 "(3) The licensee has aided, abetted, or conspired
15 with an individual or person to circumvent or violate the
16 requirements of this chapter.

17 "(4) The licensee or a legal or beneficial owner of
18 the license has been convicted of a crime that the supervisor
19 finds directly relates to the duties and responsibilities of
20 the occupation of pawnbroker.

21 "(5) The licensee has a third violation of failing
22 to take or maintain a required identifying photograph.

23 "(b) The supervisor may conditionally license or
24 place on probation a person whose license has been suspended
25 or may reprimand a licensee for a violation of this chapter.

1 "(c) The manner of giving notice and conducting a
2 hearing, as required by subsection (a), shall be as required
3 by Sections 41-22-12 and 41-22-13.

4 "(d) Any licensee may surrender a license by
5 delivering it to the supervisor with written notice of its
6 surrender. Notwithstanding the foregoing, this surrender shall
7 not affect the civil or criminal liability of the licensee for
8 acts committed prior to surrendering of the license.

9 "(e) No revocation, suspension, or surrender of a
10 license shall impair or affect the obligation of any
11 pre-existing lawful contract between the licensee and any
12 pledgor. Any pawn transaction made without benefit of license
13 is void.

14 "(f) The supervisor may reinstate suspended licenses
15 or issue new licenses to a person whose license or licenses
16 have been revoked if no fact or condition then exists which
17 would have justified the supervisor in refusing originally to
18 issue a license under this chapter.

19 "§5-19A-17.

20 "(a) In addition to any other penalty which may be
21 applicable, any licensee who willfully violates this chapter
22 or who willfully makes a false entry in any record
23 specifically required by this chapter shall be guilty of a
24 misdemeanor and, upon conviction thereof, shall be punished by
25 a fine not in excess of ~~\$1,000.00~~ one thousand dollars
26 (\$1,000) per violation or false entry.

1 "(b) In addition to any other penalty which may be
2 applicable, any licensee who fails to take and maintain a
3 required identifying photograph shall be subject to the
4 following penalties:

5 "(1) Upon the first violation, a fine of one
6 thousand dollars (\$1,000) per violation. Each required
7 photograph is a separate violation.

8 "(2) Upon the second violation within 30 days of the
9 first violation, a fine of one thousand five hundred dollars
10 (\$1,500) per violation. Each required photograph is a separate
11 violation.

12 "(3) Upon the third violation within 30 days of the
13 second violation, the license of the pawnbroker may be
14 revoked. Each required photograph is a separate violation.

15 "~~(b)~~ (c) Compliance with this chapter shall be
16 enforced by the supervisor who may exercise any authority
17 conferred by law.

18 "~~(c)~~ (d) When the supervisor has reasonable cause to
19 believe that a person is violating this chapter, the
20 supervisor, in addition to and without prejudice to the
21 authority provided elsewhere in this chapter, may enter an
22 order requiring the person to stop or to refrain from the
23 violation. The supervisor may sue in any circuit court of the
24 state having jurisdiction and venue to enjoin the person from
25 engaging in, continuing the violation, or from doing any act
26 in furtherance of the violation. In an action, the court may

1 enter an order or judgment awarding a preliminary or permanent
2 injunction."

3 Section 2. Although this bill would have as its
4 purpose or effect the requirement of a new or increased
5 expenditure of local funds, the bill is excluded from further
6 requirements and application under Amendment 621 because the
7 bill defines a new crime or amends the definition of an
8 existing crime.

9 Section 3. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.