

SENATE BILL REPORT

HB 1805

As of March 15, 2011

Title: An act relating to increasing the criminal penalty for making unlicensed small loans.

Brief Description: Increasing the criminal penalty for making unlicensed small loans.

Sponsors: Representatives Kelley, Fitzgibbon, Green, Stanford and Santos.

Brief History: Passed House: 3/05/11, 56-41.

Committee Activity: Judiciary: 3/15/11.

SENATE COMMITTEE ON JUDICIARY

Staff: Juliana Roe (786-7438)

Background: Small loans, better known as payday loans, are regulated by the Department of Financial Institutions (DFI) under the Check Cashers and Sellers Act (Act). The Act contains provisions for the licensing and regulation of businesses offering services related to check cashing and the selling of money orders, drafts, checks, and other commercial paper. The phrase payday loan refers to a type of short-term, unsecured loan that is typically offered to consumers by a business outlet offering check cashing services. In a typical payday loan transaction, the borrower writes the lender a post-dated check and, in return, the lender provides a lesser amount of cash to the consumer after subtracting interest and fees. Following this initial transaction, the lender holds the check for a specified period, during which the consumer has the option of either redeeming the check by paying the face amount to the lender or allowing the lender to cash the check after the loan period has expired.

A person or entity must be licensed to engage in the business of check cashing or check selling unless exempt from licensing requirements. A licensee must have a small loan endorsement to their check cashing or check selling license to make small loans in the state. An endorsement is required for each location where a licensee makes small loans. Applicants for a license or an endorsement must provide certain information and meet financial requirements.

It is a violation of this chapter for any person to (1) directly or indirectly employ any scheme, device, or artifice to defraud or mislead any borrower, lender, or person; (2) directly or indirectly engage in any unfair or deceptive practice toward any person; (3) directly or indirectly obtain property by fraud or misrepresentation; and (4) make a small loan to any

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person physically located in Washington through use of the Internet, facsimile, telephone, kiosk, or other means without first obtaining a small loan endorsement.

Any transaction in violation of a prohibited practice is uncollectible and unenforceable.

Any person who violates or participates in the violation of the Act or a rule or orders of the Director of DFI is guilty of a misdemeanor.

Summary of Bill: It is a Class B felony for a person to violate or participate in the violation of the prohibited practice of making a small loan to any person physically located in Washington through the use of the Internet, facsimile, telephone, kiosk, or other means without first obtaining a small loan endorsement.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill deals with unlicensed payday lenders. There are generally 90-100 complaints per year regarding illegal interstate Internet lenders. So far this year there have been 10-12 complaints. This bill increases the fine provision and gives prosecutors the jurisdiction to go after illegal Internet lenders.

Persons Testifying: PRO: Representative Kelley, prime sponsor.