

SECOND REGULAR SESSION

HOUSE BILL NO. 1189

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ALLEN (Sponsor), ZERR,
LICHTENEGGER AND FLANIGAN (Co-sponsors).

4753L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 367.044, RSMo, and to enact in lieu thereof one new section relating to pawnbrokers.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 367.044, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 367.044, to read as follows:

367.044. 1. As used in sections 367.044 to 367.055, the following terms mean:

(1) "Claimant", a person who claims that property in the possession of a pawnbroker is misappropriated from the claimant and fraudulently pledged or sold to the pawnbroker;

(2) "Conveying customer", a person who delivers property into the possession of a pawnbroker, either through a pawn transaction, a sale or trade, which property is later claimed to be misappropriated;

(3) "Hold order", a written legal instrument issued to a pawnbroker by a law enforcement officer commissioned by the law enforcement agency of the municipality or county that licenses and regulates the pawnbroker, ordering the pawnbroker to retain physical possession of pledged goods in the possession of a pawnbroker or property purchased by and in the possession of a pawnbroker and not to return, sell or otherwise dispose of such property as such property is believed to be misappropriated goods;

(4) "Law enforcement officer", the sheriff or sheriff's deputy designated by the sheriff of the county in which the pawnbroker's pawnshop is located, or when the pawnbroker's pawnshop is located within a municipality, the police chief or police officer designated by the police chief of the municipality in which the pawnbroker's pawnshop is located;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (5) "Misappropriated", stolen, embezzled, converted, or otherwise wrongfully
18 appropriated or pledged against the will of the rightful owner or party holding a perfected
19 security interest;

20 (6) "Pledgor", a person who pledges property to the pawnbroker;

21 (7) "Purchaser", a person who purchases property from a pawnbroker; and

22 (8) "Seller", a person who sells property to a pawnbroker.

23 2. A pawnbroker shall have no recourse against the pledgor for payment on a pawn
24 transaction except the pledged goods themselves, unless the goods are found to have been
25 misappropriated.

26 3. A pawnbroker shall require of every person from whom the pawnbroker receives sold
27 or pledged property **valid** proof of identification which includes **the person's name**, a current
28 address, **date of birth**, and, if applicable, telephone number, and a current picture identification
29 issued by state or federal government.

30 4. [If any seller fails to provide a pawnbroker with proof of identification, the
31 pawnbroker shall hold such property for a period of thirty days prior to selling or otherwise
32 transferring such property, provided, the seller has submitted a signed statement that the seller
33 is the legal owner of the property and stating when or from whom such property was acquired
34 by the seller.

35 5.] To obtain possession of tangible personal property held by a pawnbroker which a
36 claimant claims to be misappropriated, the claimant shall provide the pawnbroker with a written
37 demand for the return of such property, a copy of a police or sheriff's report wherein claimant
38 reported the misappropriation or theft of said property and which contains a particularized
39 description of the property or applicable serial number, and a signed affidavit made under oath
40 setting forth they are the true owner of the property, the name and address of the claimant, a
41 description of the property being claimed, the fact that such property was taken from the claimant
42 without the claimant's consent, permission or knowledge, the fact that the claimant has reported
43 the theft to the police, the fact that the claimant will assist in any prosecution relating to such
44 property, the promise that the claimant will respond to court process in any criminal prosecution
45 relating to said property and will testify truthfully as to all facts within the claimant's knowledge
46 and not claim any testimonial privilege with respect to said facts. These documents shall be
47 presented to the pawnbroker concurrently.

48 [6.] 5. Upon being served with a proper demand by a claimant for the return of property
49 pursuant to subsection 5 of this section, the pawnbroker shall return the property to the claimant,
50 in the presence of a law enforcement officer, within seven days unless the pawnbroker has good
51 reason to believe that any of the matters set forth in the claimant's affidavit are false or if there
52 is a hold order on the property pursuant to section 367.055. If a pawnbroker refuses to deliver

53 property to a claimant upon a proper demand as described in subsection 5 of this section, the
54 claimant may file a petition in a court of competent jurisdiction seeking the return of said
55 property. The nonprevailing party shall be responsible for the costs of said action and the
56 attorney fees of the prevailing party. The provisions of section 482.305 to the contrary
57 notwithstanding, a court of competent jurisdiction shall include a small claims court, even if the
58 value of the property named in the petition is greater than three thousand dollars.

59 [7.] 6. If a pawnbroker returns property to a claimant relying on the veracity of the
60 affidavit described in subsection 5 of this section, and later learns that the information contained
61 in said affidavit is false or that the claimant has failed to assist in prosecution or otherwise testify
62 truthfully with respect to the facts within the claimant's knowledge, the pawnbroker shall have
63 a cause of action against the claimant for the value of the property. The nonprevailing party shall
64 be responsible for the cost of said action and the attorney fees of the prevailing party.

65 [8.] 7. Nothing contained in this section shall limit a pawnbroker from bringing the
66 conveying customer into a suit as a third party, nor limit a pawnbroker from recovering from a
67 conveying customer repayment of the full amount received from the pawnbroker from the pawn
68 or sales transaction, including all applicable fees and interest charged, attorney's fees and the cost
69 of the action.

✓