SECOND REGULAR SESSION

SENATE BILL NO. 1076

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR DePASCO.

Read 1st time January 30, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4270S.01I

AN ACT

To repeal sections 367.031 and 367.055, RSMo, relating to use of pawnshop databases for law enforcement purposes, and to enact in lieu thereof two new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 367.031 and 367.055, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 367.031 and 367.055, to read as follows:

367.031. 1. At the time of making any secured personal credit loan, the lender shall execute and deliver to the borrower a receipt for and describing the tangible personal property subjected to the security interest to secure the payment of the loan. The receipt shall contain the following:

(1)   The name and address of the pawnshop;

(2) The name and address of the pledgor, the pledgor's description, and the driver's license number, military identification number, identification certificate number, or other official number capable of identifying the pledgor;

(3) The date of the transaction;

(4) An identification and description of the pledged goods, including serial numbers if reasonably available;

(5) The amount of cash advanced or credit extended to the pledgor;

(6) The amount of the pawn service charge;

(7) The total amount which must be paid to redeem the pledged goods on the maturity date;

(8) The maturity date of the pawn transaction; and

(9) A statement to the effect that the pledgor is not obligated to redeem the pledged goods, and that the pledged goods may be forfeited to the pawnbroker sixty days after the specified maturity date.

2. The pawnbroker may be required, in accordance with local ordinances, to furnish **[**local**] appropriate** law enforcement authorities with copies of information contained in subdivisions (1) to (4) of subsection 1 of this section **and information contained in subdivision (6) of subsection 4 of section 367.040. The pawnbroker may satisfy such requirements by transmitting such information electronically to a database in accordance with this subsection.**

(1) As used in this subsection, the following terms mean:

(a) "Database", a computer database established and maintained by a third party engaged in the business of establishing and maintaining one or more databases;

(b) "Reportable data", the information required to be recorded by pawnbrokers for pawn transactions pursuant to subdivisions (1) to (4) of subsection 1 of this section and the information required to be recorded by pawnbrokers for purchase transactions pursuant to subdivision (6) of subsection 4 of section 367.040;

(c) "Reporting pawnbroker", a pawnbroker who chooses to transmit reportable data electronically to the database;

(d) "Search", the accessing of a single database record;

(e) "User", law enforcement personnel specifically authorized to access the database.

(2) The database shall provide appropriate law enforcement officials with useful information to facilitate the investigation of alleged property crimes while protecting the privacy rights of pawnbrokers and pawnshop customers with regard to their transactions.

(3) The database shall contain the pawn and purchase transaction information recorded by reporting pawnbrokers pursuant to this section and section 367.040 and shall be updated daily. The database shall also contain such security features and protections as may be necessary to ensure that the reportable data maintained in the database can only be accessed by permitted users in accordance with the provisions of this subsection.

(4) The third party's charge for the database shall be based on the number of authorized database users. Law enforcement agencies shall be charged directly for access to the database, and the charge shall be reasonable in relation to the costs of the third party in establishing and maintaining the database. No reporting pawnbroker or customer of a reporting pawnbroker shall be charged any costs for the

creation or utilization of the database.

(5) (a) The information in the database shall only be accessible through the Internet to appropriate users who have provided a secure identification or access code to the database but shall allow such users to access database information from any jurisdiction transmitting such information to that database. Such users shall provide the database with a case number of a criminal action for which the identity of the pawn or purchase transaction customer is needed and a representation that the information is connected to the investigation of a crime involving goods delivered by that customer in that transaction. The database shall record, for each search, the identity of the user, the pawn or purchase transaction involved in the search, and the identity of any customer accessed through the search. Each search record shall be made available to other users regardless of their jurisdiction. The database shall enable reporting pawnbrokers to transmit to the database through the Internet reportable data for each pawn and purchase transaction.

(b) Any person who gains access to information in the database through fraud or false pretenses shall be guilty of a class C felony.

(6) A reporting pawnbroker, and any pawnbroker licensed after August 28, 2002, shall meet the following requirements:

(a) Provide all reportable data to appropriate users by transmitting it through the Internet to the database;

(b) Transmit all reportable data for one business day to the database prior to the end of the following business day;

(c) Make available for on-site inspection to any appropriate law enforcement official, upon request, paper copies of any pawn or purchase transaction documents.

(7) If a reporting pawnbroker or user discovers any error in the reportable data, notice of such error shall be given to the database, which shall have a period of at least thirty but no more than sixty days in which to correct the error. Any reporting pawnbroker experiencing a computer malfunction preventing the transmission of reportable data or receipt of search requests shall be allowed a period of at least thirty but no more than sixty days to repair such malfunction, and during such period such pawnbroker shall not be deemed to be in violation of this subsection if good faith efforts are made to correct the malfunction. During the periods specified in this subdivision, the reporting pawnbroker and user shall arrange an alternative method or methods by which the reportable data shall be made available.

(8) No reporting pawnbroker shall be obligated to incur any cost, other than Internet service costs, in preparing, converting, or delivering its reportable data to the database.

3. If the pawn ticket is lost, destroyed, or stolen, the pledgor may so notify the pawnbroker in writing, and receipt of such notice shall invalidate such pawn ticket, if the pledged goods have not previously been redeemed. Before delivering the pledged goods or issuing a new pawn ticket, the pawnbroker shall require the pledgor to make a written affidavit of the loss, destruction or theft of the ticket. The pawnbroker shall record on the written statement the identifying information required, the date the statement is given, and the number of the pawn ticket lost, destroyed, or stolen. The affidavit shall be signed by a notary public appointed by the secretary of state pursuant to section 486.205, RSMo, to perform notarial acts in this state.

367.055. 1. Upon request of a law enforcement officer to inspect property that is described in information furnished by the pawnbroker pursuant to subdivisions (1) to (4) of subsection 1 of section 367.031, the law enforcement officer shall be entitled to inspect the property described, without prior notice or the necessity of obtaining a search warrant during regular business hours in a manner so as to minimize interference with or delay to the pawnbroker's business operation. When a law enforcement officer has probable cause to believe that goods or property in the possession of a pawnbroker are misappropriated, the officer may place a hold order on the property. The hold order shall contain the following:

(1) The name of the pawnbroker;

(2) The name and mailing address of the pawnshop where the property is held;

(3) The name, title and identification number of the law enforcement officer placing the hold order;

(4) The name and address of the agency to which the law enforcement officer is attached and the claim or case number, if any, assigned by the agency to the claim regarding the property;

(5) A complete description of the property to be held including model and serial numbers;

(6) The expiration date of the holding period.

The hold order shall be signed and dated by the issuing officer and signed and dated by the pawnbroker or the pawnbroker's designee as evidence of the hold order's issuance by the officer, receipt by the pawnbroker and the beginning of the initial holding period. The officer issuing the hold order shall provide an executed copy of the hold order to the pawnbroker for the pawnbroker's record-keeping purposes at no cost to the pawnbroker.

2. Upon receiving the hold order, and subject to the provisions of section 367.047, the pawnbroker shall retain physical possession of the property subject to the order in a secured area. The initial holding period of the hold order shall not exceed two months, except that the hold order may be extended for up to two successive one-month holding periods upon written notification prior to the expiration of the immediately preceding holding period. A hold order may be released prior to the expiration of any holding period or extension thereof by written release from the agency placing the initial hold order. The initial hold order shall be deemed expired

upon the expiration date if the holding period is not extended pursuant to this subsection.

3. Upon the expiration of the initial holding period or any extension thereof, the pawnbroker shall deliver written notice to the law enforcement officer issuing the hold order that such order has expired and that title to the property subject to the hold order will vest in the pawnbroker in ten business days. Ownership shall only vest in the pawnbroker upon the expiration of the ten-day waiting period subject to any restriction contained in the pawn contract and subject to the provisions of sections 367.044 to 367.053.

4. In addition to the penalty provisions contained in section 367.050, gross negligence or willful noncompliance with the provisions of this section by a pawnbroker shall be cause for the licensing authority to suspend or revoke the pawnbroker's license. Any imposed suspensions or revocation provided for by this subsection may be appealed by the pawnbroker to the licensing authority or to a court of competent jurisdiction.

5. A county or municipality may enact orders or ordinances to license or regulate the operations of pawnbrokers which are consistent with and not more restrictive than the provisions of sections **[**367.044**] 367.011** to 367.055**, except that a county or municipality may regulate the number of pawn shop licensees.**

6. All records and information that relate to a pawnbroker's pawn, purchase or trade transactions and that are delivered to or otherwise obtained by an appropriate law enforcement officer pursuant to sections 367.031 and 367.040 are confidential and may be used only by such appropriate law enforcement officer and only for the following official law enforcement purposes:

(1) The investigation of a crime specifically involving the item of property delivered to the pawnbroker in a pawn, purchase or trade transaction;

(2) The investigation of a pawnbroker's possible specific violation of the record-keeping or reporting requirements of sections 367.031 and 367.040, but only when the appropriate law enforcement officer, based on a review of the records and the information received, has probable cause to believe that such a violation occurred; and

(3) The notification of property crime victims of where property that has been reported misappropriated can be located.

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