

**SENATE AMENDMENT NO. \_\_\_\_\_**

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend \_\_\_\_\_ Senate Bill No. 524, Page 2, Section 362.159, Line 22,

by inserting immediately after said line the following:

"367.105. Any person making or offering a consumer credit loan shall contract for and receive interest and fees in accordance with sections 408.100, 408.140, and 408.170 and shall be subject to all provisions of sections 408.100, 408.140, and 408.170.

367.515. A title lender shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140 and shall be subject to all provisions of sections 408.100 and 408.140."; and

Further amend said bill and page, section 370.073, line 22, by inserting immediately after said line the following:

"408.100. 1. This section shall apply to all loans which are not made as permitted by other laws of this state except that it shall not apply to loans which are secured by a lien on real estate, nonprocessed farm products, livestock, farm machinery or crops or to loans to corporations. On any loan subject to this section, any person, firm, or corporation may charge, contract for and receive interest on the unpaid principal balance at rates agreed to by the parties provided that the interest, fees, and finance charges shall not exceed an annual percentage rate of

1 thirty-six percent.

2 2. A person shall not engage in any device or subterfuge  
3 intended to evade the requirements of this chapter through any  
4 method including, but not limited to, mail, telephone, internet,  
5 or any electronic means, including:

6 (1) Offering, making, assisting a borrower to obtain, or  
7 brokering a loan at an annual percentage rate prohibited by this  
8 section, making loans disguised as personal property sales and  
9 leaseback transactions, or disguising loan proceeds as cash  
10 rebates for the pretextual installment sale of goods or services;

11 (2) Making, assisting a borrower to obtain, or brokering an  
12 offer of credit, or in whole or in part, from a third party, or  
13 acting as an agent for a third party, regardless of whether the  
14 third party is exempt from licensing or whether approval,  
15 acceptance, or ratification by the third party is necessary to  
16 create a legal obligation for the third party; or

17 (3) Charging any application fee for the provision of  
18 credit or any fee for participation in a credit plan, if such a  
19 fee is authorized under any applicable section of Missouri law,  
20 without including the fees in the calculation of the annual  
21 percentage rate of the credit in accordance with the allowable  
22 rate set forth in this section.

23 408.500. 1. Lenders, other than banks, trust companies,  
24 credit unions, savings banks and savings and loan companies, in  
25 the business of making unsecured loans of five hundred dollars or  
26 less, commonly known as payday lenders, shall obtain a license  
27 from the director of the division of finance. An annual license  
28 fee of three hundred dollars per location shall be required. The  
29 license year shall commence on January first each year and the

1 license fee may be prorated for expired months. The director may  
2 establish a biennial licensing arrangement but in no case shall  
3 the fees be payable for more than one year at a time. The  
4 provisions of this section shall not apply to pawnbroker loans,  
5 consumer credit loans as authorized under chapter 367, nor to a  
6 check accepted and deposited or cashed by the payee business on  
7 the same or the following business day. The disclosures required  
8 by the federal Truth in Lending Act and regulation Z shall be  
9 provided on any loan, renewal or extension made pursuant to this  
10 section and the loan, renewal or extension documents shall be  
11 signed by the borrower.

12 2. Entities making loans pursuant to this section shall  
13 contract for and receive simple interest and fees in accordance  
14 with sections 408.100 and 408.140 and shall be subject to all  
15 provisions of sections 408.100 and 408.140. Any contract  
16 evidencing any fee or charge of any kind whatsoever, except for  
17 bona fide clerical errors, in violation of this section shall be  
18 void. Any person, firm or corporation who receives or imposes a  
19 fee or charge in violation of this section shall be guilty of a  
20 class A misdemeanor.

21 3. Notwithstanding any other law to the contrary, cost of  
22 collection expenses, which include court costs and reasonable  
23 attorneys fees, awarded by the court in suit to recover on a bad  
24 check or breach of contract shall not be considered as a fee or  
25 charge for purposes of this section.

26 4. Lenders licensed pursuant to this section shall  
27 conspicuously post in the lobby of the office, in at least  
28 fourteen-point bold type, the maximum annual percentage rates  
29 such licensee is currently charging and the statement:

1 NOTICE:

2 This lender offers short-term loans. Please read and  
3 understand the terms of the loan agreement before signing.

4 5. The lender shall provide the borrower with a notice in  
5 substantially the following form set forth in at least ten-point  
6 bold type, and receipt thereof shall be acknowledged by signature  
7 of the borrower:

8 (1) This lender offers short-term loans. Please read and  
9 understand the terms of the loan agreement before signing.

10 (2) You may cancel this loan without costs by returning the  
11 full principal balance to the lender by the close of the lender's  
12 next full business day.

13 6. The lender shall renew the loan upon the borrower's  
14 written request and the payment of any interest and fees due at  
15 the time of such renewal; however, upon the first renewal of the  
16 loan agreement, and each subsequent renewal thereafter, the  
17 borrower shall reduce the principal amount of the loan by not  
18 less than five percent of the original amount of the loan until  
19 such loan is paid in full. However, no loan may be renewed more  
20 than six times.

21 7. When making or negotiating loans, a licensee shall  
22 consider the financial ability of the borrower to reasonably  
23 repay the loan in the time and manner specified in the loan  
24 contract. All records shall be retained at least two years.

25 8. A licensee who ceases business pursuant to this section  
26 must notify the director to request an examination of all records  
27 within ten business days prior to cessation. All records must be  
28 retained at least two years.

29 9. Any lender licensed pursuant to this section who fails,

1 refuses or neglects to comply with the provisions of this  
2 section, or any laws relating to consumer loans or commits any  
3 criminal act may have its license suspended or revoked by the  
4 director of finance after a hearing before the director on an  
5 order of the director to show cause why such order of suspension  
6 or revocation should not be entered specifying the grounds  
7 therefor which shall be served on the licensee at least ten days  
8 prior to the hearing.

9 10. Whenever it shall appear to the director that any  
10 lender licensed pursuant to this section is failing, refusing or  
11 neglecting to make a good faith effort to comply with the  
12 provisions of this section, or any laws relating to consumer  
13 loans, the director may issue an order to cease and desist which  
14 order may be enforceable by a civil penalty of not more than one  
15 thousand dollars per day for each day that the neglect, failure  
16 or refusal shall continue. The penalty shall be assessed and  
17 collected by the director. In determining the amount of the  
18 penalty, the director shall take into account the appropriateness  
19 of the penalty with respect to the gravity of the violation, the  
20 history of previous violations, and such other matters as justice  
21 may require.

22 408.505. 1. This section shall apply to:

23 (1) Unsecured loans made by lenders licensed or who should  
24 have been licensed pursuant to section 408.500;

25 (2) Any person that the Missouri division of finance  
26 determines that has entered into a transaction that, in  
27 substance, is a disguised loan; and

28 (3) Any person that the Missouri division of finance  
29 determines has engaged in subterfuge for the purpose of avoiding

1 the provisions of this section.

2 2. All loans made pursuant to this section and section  
3 408.500, shall have a minimum term of fourteen days and a maximum  
4 term of thirty-one days, regardless of whether the loan is an  
5 original loan or renewed loan.

6 3. A lender may only charge simple interest and fees in  
7 accordance with sections 408.100 and 408.140 and shall be subject  
8 to all provisions of sections 408.100 and 408.140. No other  
9 charges of any nature shall be permitted except as provided by  
10 this section, including any charges for cashing the loan proceeds  
11 if they are given in check form. [However, no borrower shall be  
12 required to pay a total amount of accumulated interest and fees  
13 in excess of seventy-five percent of the initial loan amount on  
14 any single loan authorized pursuant to this section for the  
15 entire term of that loan and all renewals authorized by section  
16 408.500 and this section.]

17 4. A loan made pursuant to the provisions of section  
18 408.500 and this section shall be deemed completed and shall not  
19 be considered a renewed loan when the lender presents the  
20 instrument for payment or the payee redeems the instrument by  
21 paying the full amount of the instrument to the lender. Once the  
22 payee has completed the loan, the payee may enter into a new loan  
23 with a lender.

24 5. Except as provided in subsection 3 of this section, no  
25 loan made pursuant to this section shall be repaid by the  
26 proceeds of another loan made by the same lender or any person or  
27 entity affiliated with the lender. A lender, person or entity  
28 affiliated with the lender shall not have more than five hundred  
29 dollars in loans made pursuant to section 408.500 and this

1 section outstanding to the same borrower at any one time. A  
2 lender complies with this subsection if:

3 (1) The consumer certifies in writing that the consumer  
4 does not have any outstanding small loans with the lender which  
5 in the aggregate exceeds five hundred dollars, and is not  
6 repaying the loan with the proceeds of another loan made by the  
7 same lender; and

8 (2) The lender does not know, or have reason to believe,  
9 that the consumer's written certification is false.

10 6. On a consumer loan transaction where cash is advanced in  
11 exchange for a personal check, a return check charge may be  
12 charged in the amounts provided by sections 408.653 and 408.654,  
13 as applicable.

14 7. No state or public employee or official, including a  
15 judge of any court of this state, shall enforce the provisions of  
16 any contract for payment of money subject to this section which  
17 violates the provisions of section 408.500 and this section.

18 8. A person does not commit the crime of passing a bad  
19 check pursuant to section 570.120 if at the time the payee  
20 accepts a check or similar sight order for the payment of money,  
21 he or she does so with the understanding that the payee will not  
22 present it for payment until later and the payee knows or has  
23 reason to believe that there are insufficient funds on deposit  
24 with the drawee at the time of acceptance. However, this section  
25 shall not apply if the person's account on which the instrument  
26 was written was closed by the consumer before the agreed-upon  
27 date of negotiation or the consumer has stopped payment on the  
28 check.

29 9. A lender shall not use a device or agreement that would

1 have the effect of charging or collecting more fees, charges, or  
2 interest than allowed by this section, including, but not limited  
3 to:

- 4 (1) Entering into a different type of transaction;
- 5 (2) Entering into a sales lease back arrangement;
- 6 (3) Catalog sales;
- 7 (4) Entering into any other transaction with the consumer  
8 that is designed to evade the applicability of this section.

9 10. The provisions of this section shall only apply to  
10 entities subject to the provisions of section 408.500 and this  
11 section.

12 408.510. Notwithstanding any other law to the contrary, the  
13 phrase "consumer installment loans" means secured or unsecured  
14 loans of any amount and payable in not less than four  
15 substantially equal installments over a period of not less than  
16 one hundred twenty days. The phrase "consumer installment  
17 lender" means a person licensed to make consumer installment  
18 loans. A consumer installment lender shall be licensed in the  
19 same manner and upon the same terms as a lender making consumer  
20 credit loans. Such consumer installment lenders shall contract  
21 for and receive interest and fees in accordance with sections  
22 408.100, 408.140, and 408.170 and shall be subject to all  
23 provisions of sections 408.100, 408.140, and 408.170. Consumer  
24 installment lenders shall be subject to the provisions of  
25 sections 408.551 to 408.562."; and

26 Further amend the title and enacting clause accordingly.