

Pennsylvania Pawnbrokers Association

29 South 69th Street Upper Darby Pennsylvania 19082
Telephone 610-352-8707 Facsimile 610-352-0273

August 5, 2010

Via email: WHannafo@pahouse.net

Memo: House Judiciary Committee

From: Stanton Myerson, President

The following is testimony on behalf of the membership of the Pennsylvania Pawnbrokers Association in reference to House Bill No. 2517 Session of 2010.

Proposed Section 16.1 Hold Orders and Related Procedures

Opening remarks: The Pennsylvania Pawnbrokers Association is committed in keeping our industry current with the changes, needs and the legal protections to which our clients and members are entitled. To that end our association will work diligently with government and law enforcement to create a more comprehensive and workable system. In order for this to occur, it is imperative there be a level of trust between all parties; being essential that information be shared with an open dialogue.

Comments on proposed Section 16.1:

1. The proposed Section 16.1 is a duplication in part of PAWNBROKERS ACT (63P.S. 281-1 et seq.) PART V, PAWNBROKERS Chapter 61. GENERAL PROVISIONS, Section 61.8 Stolen Property. (Copy attached). This provision has been in place since the Act was passed, nearly 75 years ago, and has worked well. Most pawnbrokers have a healthy relationship with their respective police departments in curbing the trafficking of stolen property by freely exchanging information about the clients they deal with and the property they accept for collateral.
2. To put this matter in proper perspective, in the Commonwealth of Pennsylvania there exists less than 60 licensed Pawnbrokers. With a low number of licensees, law enforcement might take a closer look at unlicensed dealers, who buy and resell property without any mandatory standardized reporting. Police files will show that a very small percentage of stolen property can be attributed to Pawnbrokers.
3. What constitutes "...probable cause..."? A hunch, a tip or allegation by a spouse, family member, girlfriend or boyfriend? I believe there should be some guide lines to protect the rights of the Pawnbroker from unsupported allegations.

4. What defines "*misappropriated*"? Does it mean stolen property, adverse claims of ownership, property in a divorce proceeding? The wording is too vague, broad and needs clarification.
5. The aforementioned Section 61.8 attached addresses the "HOLD" order under the term "STOP" order, with a similar 90 day holding period. However under current regulations, the "STOP" period "*...shall automatically lapse at the expiration of 90 days unless extended by the issuing authority...*" We believe that this "*...automatically lapse...*" provision should remain unchanged since 90 days should be adequate to determine rightful ownership of such questionable property. And if not, the current provision provides for an extension.
6. What is the definition of "*appropriate law enforcement official*" Does it include only law enforcement official from within a licensed Pawnbrokers jurisdiction? Can an outside jurisdiction supersede local authorities? Does it include the Federal government or a foreign state, not having jurisdiction? A more narrow definition is necessary to avoid misinterpretation of the regulation.
7. The proposed Section requires the Pawnbroker to inform by "*...the appropriate law enforcement official by certified mail, return receipt requested that the holding period expired*". This makes little sense. The law enforcement official making the initial "HOLD" or "STOP" request, should be required to track it, not the Pawnbroker. If an extension is necessary, it should be the responsibility of the official making the initial request. This is addressed in the current Pawnbrokers Act Section 61.8 (a) (3).
8. The Pawnbrokers Association has NO objections to a "HOLD" order form containing the information required by the proposed Section 16.1.

In summary, The Pennsylvania Pawnbrokers Association believes the existing regulation, 61.8 Stolen Property, as written is adequate to meet the needs of both law enforcement and the Pawnbroking industry. However, if the regulation needs some refinement we would be willing to work with all parties to reach a reasonable compromise agreement.

Respectfully submitted,

Stanton Myerson
President

SM/ms
Attachments



§ 61.8. Stolen property.

(a) Licensees receiving stolen property in pledge shall surrender such property to the established rightful owner when directed to do so in writing by a properly constituted police official having jurisdiction in the situation, or by the Department, if such owner tenders payment of the principal amount loaned exclusive of any charges which may have accrued.

(b) Licensees receiving stolen property in pledge shall, when directed to do so by a properly constituted police official, or by the Department, place a “stop” against the pledge. Such a “stop” order shall have the following provisions:

(1) The licensee shall not surrender or sell the property until there has been a legal determination of ownership, or until the “stop” order has been rescinded.

(2) When legal ownership has been adjudicated, the rightful owner shall not be required to pay either the principal amount loaned or any charges which may have accrued.

(3) The order shall automatically lapse at the expiration of 90 days unless extended by the issuing authority, or unless legal action has been taken to determine legal ownership.

(c) Licensees may seize any property offered in pledge which there is reason to believe is stolen property. To seize the property the licensee shall:

(1) Issue a seizure receipt to the person presenting the property.

(2) Deliver the seized property, together with a copy of the seizure receipt, to the local police authorities.

No part of the information on this site may be reproduced for profit or sold for profit.

This material has been drawn directly from the official Pennsylvania Code full text database. Due to the limitations of HTML or differences in display capabilities of different browsers, this version may differ slightly from the official printed version.