

REFERENCE TITLE: payday loans; military

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SB 1473

Introduced by

Senators Aguirre, Aboud, Gray C, Landrum Taylor, Rios; Representatives
Bradley, Gallardo; Senators Arzberger, Burton Cahill, Chevront, Garcia,
Hale, McCune Davis, Miranda, Pesquiera, Soltero; Representatives Burns J,
Farley, Lopes, Lopez, Lujan, McClure, Pancrazi, Ulmer

AN ACT

AMENDING SECTION 6-1260, ARIZONA REVISED STATUTES; RELATING TO DEFERRED
PRESENTMENT COMPANIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 6-1260, Arizona Revised Statutes, is amended to
3 read:

4 6-1260. Deferred presentment; amount; fees; loans and marketing
5 of loans to members of military service

6 A. The licensee may accept for deferred presentment or deposit a check
7 with a face amount of at least fifty dollars but not more than five hundred
8 dollars, excluding the fees permitted in subsection F of this section.

9 B. For each check the licensee accepts for deferred presentment or
10 deposit, the licensee and the customer shall sign a written agreement that
11 contains the name or trade name of the licensee, the transaction date, the
12 amount of the check, the amount to be paid by the maker, a statement of the
13 total amount of the fees charged, expressed both as a dollar amount and as an
14 effective annual percentage rate, a disclosure statement that complies with
15 state and federal truth in lending laws and a notice to the customer as
16 prescribed in subsection C of this section. The written agreement shall
17 expressly require the licensee to defer presentment or deposit of the check
18 until a specified date.

19 C. A licensee shall provide a notice in a prominent place on each
20 written agreement that specifies that no customer may have outstanding more
21 than one deferred presentment service agreement at one time and THAT the face
22 amount, exclusive of any fees, cannot be more than five hundred dollars. A
23 licensee shall ask every customer who seeks deferred presentment services
24 whether that customer has any outstanding checks payable to other licensees.

25 D. A licensee may rely on the customer's representation of whether the
26 customer has any outstanding checks for deferred presentment held by other
27 licensees.

28 E. The maker of a check has the right to redeem the check from the
29 licensee before the agreed on date of presentment or deposit if the maker
30 pays the licensee the amount of the check.

31 F. A licensee shall not directly or indirectly charge any fee or other
32 consideration for accepting a check for deferred presentment or deposit that
33 is more than fifteen per cent of the face amount of the check for any initial
34 transaction or any extension.

35 G. A licensee may impose the fee prescribed in subsection F of this
36 section only once for each written agreement. The fee is earned on execution
37 of the written agreement and is not subject to any reimbursement even if the
38 maker redeems the check pursuant to subsection E of this section.

39 H. EXCEPT AS PROVIDED IN SUBSECTION L OF THIS SECTION, the fee charged
40 by the licensee is not interest for purposes of any other law or rule of this
41 state.

42 I. Except as otherwise provided in this subsection, a person may
43 extend the presentment or deposit of a check not more than three consecutive
44 times. For each extension the customer and the licensee shall terminate the
45 previous agreement and sign a separate agreement. During an incomplete

1 transaction the customer may not receive any additional monies from the
2 licensee. The licensee may charge a fee as prescribed in subsection F of
3 this section for each extension. A person who is a member of the military
4 service of the United States or the member's spouse may not extend the
5 presentment or deposit of a check. If a customer has completed a deferred
6 presentment transaction with the licensee, the customer may enter into a new
7 agreement for deferred presentment services with the licensee. A transaction
8 is completed when the customer's check is presented for payment, deposited or
9 redeemed by the customer for cash.

10 J. If a check is returned to the licensee from a payer financial
11 institution due to insufficient funds, a closed account or a stop payment
12 order, the licensee may use all available civil remedies to collect on the
13 check, including the imposition of the dishonored check service fee
14 prescribed in section 44-6852. An individual who issues a personal check to
15 a licensee under a deferred presentment agreement is not subject to criminal
16 prosecution pursuant to title 13, chapter 18.

17 K. Before engaging in a deferred presentment transaction, a licensee
18 shall provide to a customer who is a member of the military service of the
19 United States or the member's spouse a written statement that clearly and
20 conspicuously states the prohibited practices and requirements prescribed in
21 subsection L of this section AND THAT FULLY EXPLAINS THE ANNUAL INTEREST RATE
22 AND ANY PAYMENT PROVISIONS OF THE AGREEMENT. THE MEMBER OR THE MEMBER'S
23 SPOUSE MUST INITIAL THE INTEREST AND PAYMENT PROVISIONS TO INDICATE THE
24 MEMBER OR MEMBER'S SPOUSE UNDERSTANDS THEM. A LICENSEE ALSO MUST FULLY
25 EXPLAIN THE ANNUAL INTEREST RATE AND PAYMENT PROVISIONS OF THE AGREEMENT TO
26 THE MEMBER OR THE MEMBER'S SPOUSE. THE AGREEMENT SHALL CONTAIN A PLACE FOR
27 THE CUSTOMER'S INITIALS TO INDICATE THE LICENSEE FULLY EXPLAINED THE ANNUAL
28 INTEREST RATE AND PAYMENT PROVISIONS.

29 L. If lending to a member of the military service of the United States
30 or the spouse of a member of the military service of the United States, a
31 licensee:

- 32 1. Shall not garnish any military wages or salary.
- 33 2. Shall not conduct any collection activity against a customer who is
34 a member of the military service of the United States or the spouse of the
35 member during the member's deployment to a combat or combat support posting
36 or during active duty service by a member of the national guard or any
37 military reserve unit of any branch of the armed forces of the United States.
- 38 3. Shall contact the employer of a member of the military service of
39 the United States about a deferred presentment debt of the member or the
40 member's spouse. The contact allowed by this paragraph shall only be a
41 notice for informational purposes and shall not be an attempt to collect on a
42 loan made to the member or the member's spouse. A licensee shall not attempt
43 to collect on a loan made to a member of the military service of the United
44 States or the member's spouse through the member's chain of command.

- 1 4. Shall not conduct a deferred presentment transaction with a member
2 of the military service of the United States or the member's spouse in any
3 location that the member's commanding officer prohibits the member or the
4 member's spouse from transacting deferred presentment business.
- 5 5. Is bound by the terms of any repayment agreement that the licensee
6 negotiates with respect to the customer through military counselors or third
7 party credit counselors.
- 8 6. NOTWITHSTANDING SUBSECTION F OF THIS SECTION, SHALL NOT CHARGE AN
9 ANNUAL INTEREST RATE, INCLUDING FEES, OF MORE THAN THIRTY-SIX PER CENT.
- 10 7. SHALL NOT CHARGE INTEREST WHEN THE MEMBER OF THE MILITARY SERVICE
11 IS DEPLOYED OVERSEAS. WHEN THE MEMBER RETURNS TO A BASE IN THE UNITED
12 STATES, THE MEMBER OR THE MEMBER'S SPOUSE SHALL HAVE THIRTY DAYS TO START
13 REPAYING THE LOAN BEFORE THE LICENSEE MAY CHARGE INTEREST.
- 14 8. SHALL NOT CHARGE A PREPAYMENT PENALTY OR FEE IF THE MEMBER OR THE
15 MEMBER'S SPOUSE PREPAYS THE LOAN OR ANY PORTION OF THE LOAN.
- 16 M. A LICENSEE SHALL NOT DIRECTLY MARKET DEFERRED PRESENTMENT SERVICES
17 TO A MEMBER OF THE MILITARY SERVICE OF THE UNITED STATES OR THE MEMBER'S
18 SPOUSE IN A MANNER THAT SUGGESTS A MILITARY AFFILIATION WITH A DEFERRED
19 PRESENTMENT SERVICE.