

# SENATE BILL REPORT

## SB 5150

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As of February 10, 2009

**Title:** An act relating to a maximum rate for interest or fees charged for small loans.

**Brief Description:** Setting a maximum rate for interest or fees charged for small loans.

**Sponsors:** Senators Kline, Pridemore and Kohl-Welles.

**Brief History:**

**Committee Activity:** Labor, Commerce & Consumer Protection: 2/10/09.

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### SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

**Staff:** Alison Mendiola (786-7483)

**Background:** Payday lending practices are regulated by the Department of Financial Institutions (DFI) under the Check Cashers and Sellers Act (Act), Chapter 31.45 RCW. The phrase "payday loan" refers to a type of short-term, unsecured loan that is typically offered to consumers by a business outlet offering check cashing services. In a typical payday loan transaction, the consumer writes the lender a post-dated check and, in return, the lender provides a lesser amount of cash to the consumer after subtracting interest and fees. Following this initial transaction, the lender holds the check for a specified period, during which the consumer has the option of either redeeming the check by paying the face amount to the lender or allowing the lender to cash the check after the loan period has expired.

The Act contains provisions for the licensing and regulation of businesses offering services related to check cashing and the selling of money orders, drafts, checks, and other commercial paper. The Act regulates payday lending practices and provides for regulation of licensees who are specifically authorized to issue small loans ("payday loans"). No lender may lend more than \$700 to a single borrower at any one time. The lender may charge up to 15 percent for the first \$500. If the borrower has a loan in excess of \$500, the lender can charge up to 10 percent on the amount over \$500. For example, a lender could charge up to \$50 for a \$500 loan or up to \$95 for a \$700 loan.

Under the Act, licensees must maintain business books, accounts, and records. The books and accounts must be maintained for at least two years after a transaction. The DFI also has statutory authority to examine books, accounts, records, and files, or other information of licensees and persons that the agency has reason to believe is engaging in the business

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governed by Chapter 31.45 RCW.

Borrowers and lenders may agree to a payment plan for payday loans at any time. After four successive loans, and prior to default on the last loan, a borrower is entitled to convert his or her loans into a payment plan with the lender. Such payment plans are subject to the following conditions:

- a written agreement is required;
- the lender may charge the borrower a one-time fee in an amount up to the fee or interest on the outstanding principal;
- the agreement must allow the buyer not less than 60 days to pay off the loan; and
- the borrower must be allowed to pay off the loan in at least three payments.

The Director of the Department of Financial Institutions (Director) may impose the sanctions against any:

- licensee;
- applicant; or
- director, officer, sole proprietor, partner, controlling person, or employee of a licensee.

Sanctions may include:

- the denial, revocation, suspension, or conditioning of a license;
- an order to cease and desist from specific practices;
- the imposition of a fine not to exceed \$100 per day for each day's violation;
- the provision of restitution to borrowers or other injured parties; and
- the removal from office or banning from participation in the affairs of any licensee.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** Terms and Fees of Payday Loans. A licensee may not charge more than 36 percent per annum for the origination of a small loan plus an origination fee of \$10 per \$100, with a maximum of \$30. This origination fee applies to any successive loans, which is a loan made within seven days of a previous loan. Additionally, there is a cooling off period of seven days between payday loans.

The minimum term for a payday loan is 31 days and the maximum term is 60 days.

A licensee may not hold a post-dated check from the borrower. If a check from a borrower is returned unpaid, the maximum fee the licensee may collect is \$20.

Enforcement and Penalties. It is clarified that only a licensee may offer a small loan, including by mail, telephone, internet, or electronic means.

The civil penalty for a violation of the Act may be up to \$2,500.

Database. A database system is authorized.

**Appropriation:** None.

**Fiscal Note:** Requested February 8, 2009.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

**Persons Testifying:** PRO: Senator Kline,

CON: Dennis Bassford, Angela Toussant, Regina Alexander, Pamela Fann, Oscar Eason, Chris Guillen, and Connie Proctor, Moneytree and Financial Service Centers of Washington