

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5164**

61st Legislature  
2009 Regular Session

Passed by the Senate February 26, 2009  
YEAS 45 NAYS 0

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**President of the Senate**

Passed by the House March 13, 2009  
YEAS 90 NAYS 2

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5164** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SENATE BILL 5164**

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Passed Legislature - 2009 Regular Session

**State of Washington                      61st Legislature                      2009 Regular Session**

**By** Senators Berkey, Benton, Hobbs, and Parlette; by request of  
Department of Financial Institutions

Read first time 01/15/09. Referred to Committee on Financial  
Institutions, Housing & Insurance.

1            AN ACT Relating to placing restrictions on check cashers' and  
2 sellers' communications when collecting delinquent small loans; and  
3 amending RCW 31.45.082.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 31.45.082 and 2003 c 86 s 11 are each amended to read  
6 as follows:

7            (1) A licensee shall comply with all applicable state and federal  
8 laws when collecting a delinquent small loan. A licensee may charge a  
9 one-time fee as determined in rule by the director to any borrower in  
10 default on any loan or loans where the borrower's check has been  
11 returned unpaid by the financial institution upon which it was drawn.  
12 A licensee may take civil action under Title 62A RCW to collect upon a  
13 check that has been dishonored. If the licensee takes civil action, a  
14 licensee may charge the borrower the cost of collection as allowed  
15 under RCW 62A.3-515, but may not collect attorneys' fees or any other  
16 interest or damages as allowed under RCW 62A.3-515. A licensee may not  
17 threaten criminal prosecution as a method of collecting a delinquent  
18 small loan or threaten to take any legal action against the borrower  
19 which the licensee may not legally take.

1       (2) Unless invited by the borrower, a licensee may not visit a  
2 borrower's residence or place of employment for the purpose of  
3 collecting a delinquent small loan. A licensee may not impersonate a  
4 law enforcement official, or make any statements which might be  
5 construed as indicating an official connection with any federal, state,  
6 county, or city law enforcement agency, or any other governmental  
7 agency, while engaged in collecting a small loan.

8       (3) A licensee may not communicate with a borrower in such a manner  
9 as to harass, intimidate, abuse, or embarrass a borrower, including but  
10 not limited to communication at an unreasonable hour, with unreasonable  
11 frequency, by threats of force or violence, or by use of offensive  
12 language. A communication shall be presumed to have been made for the  
13 purposes of harassment if it is initiated by the licensee for the  
14 purposes of collection and:

15       (a) It is made with a borrower or spouse in any form, manner, or  
16 place, more than three times in a single week;

17       (b) It is made with a borrower at his or her place of employment  
18 more than one time in a single week or made to a borrower after the  
19 licensee has been informed that the borrower's employer prohibits such  
20 communications;

21       (c) It is made with the borrower or spouse at his or her place of  
22 residence between the hours of 9:00 p.m. and 7:30 a.m.; or

23       (d) It is made to a party other than the borrower, the borrower's  
24 attorney, the licensee's attorney, or a consumer reporting agency if  
25 otherwise permitted by law except for purposes of acquiring location or  
26 contact information about the borrower.

27       (4) A licensee is required to maintain a communication log of all  
28 telephone and written communications with a borrower initiated by the  
29 licensee regarding any collection efforts including date, time, and the  
30 nature of each communication.

31       (5) If a dishonored check is assigned to any third party for  
32 collection, this section applies to the third party for the collection  
33 of the dishonored check.

34       (6) For the purposes of this section, "communication" includes any  
35 contact with a borrower, initiated by the licensee, in person, by  
36 telephone, or in writing (including e-mails, text messages, and other  
37 electronic writing) regarding the collection of a delinquent small  
38 loan, but does not include any of the following:

1       (a) Communication while a borrower is physically present in the  
2 licensee's place of business;  
3       (b) An unanswered telephone call in which no message (other than a  
4 caller ID) is left, unless the telephone call violates subsection  
5 (3)(c) of this section; and  
6       (c) An initial letter to the borrower that includes disclosures  
7 intended to comply with the federal fair debt collection practices act.  
8       (7) For the purposes of this section, (a) a communication occurs at  
9 the time it is initiated by a licensee regardless of the time it is  
10 received or accessed by the borrower, and (b) a call to a number that  
11 the licensee reasonably believes is the borrower's cell phone will not  
12 constitute a communication with a borrower at the borrower's place of  
13 employment.  
14       (8) For the purposes of this section, "week" means a series of  
15 seven consecutive days beginning on a Sunday.

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