

Senate Bill 1400 (Substitute H-1)
First Analysis (12-12-00)

Sponsor: Sen. Dale L. Shugars
House Committee: Local Government and
Urban Policy
Senate Committee: Economic
Development, International Trade, and
Regulatory Affairs

THE APPARENT PROBLEM:

Public Act 273 of 1917 prohibits a person from operating a pawnbroker business in a city or incorporated village with a population over 3,000 unless the person obtains a license from the mayor of the city, or president of the village, where the business will be operated. Under the act, pawnbrokers are subject to specific record-keeping requirements, and must forward copies of their business transaction records to the local police agency, using a two-sided record of transaction form a description of which is included in the law. See *BACKGROUND INFORMATION* below. The law enforcement officials are then able to examine the business, the property, and the records to determine whether a pawnbroker is dealing in stolen property.

In some parts of the state there has been an increase in the number of pawnshops located in areas outside the purview of the licensing act. Sometimes these pawnshops are near casinos. It has been suggested that the authority to regulate pawnbrokers be extended to other units of government in order to broaden the regulatory power of the act and bring all pawnshops under its control.

THE CONTENT OF THE BILL:

Generally, Senate Bill 1400 would amend Public Act 273 of 1917 to provide for the regulation and licensure of pawnbrokers by townships, charter townships, counties, cities, and villages without regard to the population of the licensing local unit of government. To this end, the bill would delete references in the law to cities and incorporated villages with a population over 3,000 and refer, instead, to a "governmental unit". The bill also would delete references to the mayor of a city or president of a village and refer, instead, to the "chief executive officer" of the governmental unit.

Under the bill, a person, corporation, or firm carrying on the business of pawnbroker that was not required to obtain a license before the effective date of the bill would be required to obtain a license within 180 days.

Currently, before a license is issued, the law requires the applicant to pay an annual license fee of \$250 and to give a \$3,000 bond, approved by the city or incorporated village. The law also permits a city or village council to fix the annual license fee at any amount that is at least \$50 but not more than \$500. The bill would retain these provisions for all licensing governmental units, and it would define "governmental unit" to mean a city, township, charter township, county, or incorporated village.

The bill specifies that notwithstanding other provisions of the bill, the authority of a governmental unit to issue a license under the act would be limited, as follows: a) a county could not issue a license for a location within a city or village with a population greater than 3,000; b) a county could not issue a license for a location within a city or village with a population of 3,000 or less, or within a township or charter township if that city, village, township, or charter township had established the license fee under the bill's provisions, and c) a township or charter township could not issue a license for a location within a village with a population over 3,000, or a village with a population of 3,000 or less that had established a fee under the bill.

Further, the bill would define "chief executive officer" to mean any of the following: i) for a city, the mayor; ii) for a village, the village president; iii) for a township or charter township, the township supervisor; and iv) for a county, the county executive or, if there was no county executive, the person designated by a resolution of the county board of commissioners.

MCL 446.201 et al.

HOUSE COMMITTEE ACTION:

The House Committee on Local Government and Urban Policy adopted a substitute for the Senate-passed version of Senate Bill 1400. The committee substitute adds ‘charter townships’ to the list of units of government that may issue a license under the act.

BACKGROUND INFORMATION:

Public Act 273 of 1917 requires a pawnbroker, at the time he or she receives an article of personal property or other valuable item, to keep a record that includes a description of the article, a sequential transaction number, any money loaned on the article, information about the person from whom the article was received, and the day and hour when the article was received. The record, the place of business of the pawnbroker, and all articles of property in that business are subject to examination by the city attorney, the local police agency, the prosecutor of the county where the business is located, or the Department of State Police. Within 48 hours of receiving property, a pawnbroker is required to send a copy of the record of transaction to the local police agency.

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that the bill would impose new administrative costs on local units of government that do not currently perform the function of licensing pawnshops, although these costs would likely be small. In addition, the bill would allow the licensing local units of government to impose a license fee of between \$50 and \$500, thereby increasing local revenue, as well. The magnitude of the cost and revenue increases would depend on the number of pawnbrokers that would eventually be licensed under the new provisions. (12-7-00)

ARGUMENTS:

For:

Some law enforcement officials have seen an increase in the number of pawnshops that are located in areas near casinos. In many cases, these shops do not fall under the regulations of Public Act 273 because they are located in jurisdictions that are not covered by the act. In Midland County, for example, a pawnshop reportedly is operating outside of the Mt. Pleasant city limits. Because the shop is not located within the city, or in a village of more than 3,000 population, it is not

subject to regulation. Consequently, the operator does not have to keep records of the articles that are pawned. In this situation, unless an owner gives consent for the police to enter the shop and examine the inventory, law enforcement officials must show probable cause to believe that the shop is dealing in specific stolen property, and obtain a warrant, before they can enter the business and conduct an inspection. In contrast, with licensure all articles of property in the business are subject to examination at any time by law enforcement officials. By requiring the licensure of all pawnshops, regardless of the location of the business, the bill would enable local police to inspect the business to make sure that it was not being used to buy or sell stolen goods.

For:

The legislation was clarified and improved when the members of House Committee on Local Government and Urban Policy added a provision that bars the possibility of overlapping licensure by the different levels of government that have licensing authority.

POSITIONS:

The Michigan Townships Association supports the bill. (12-7-00)

The Prosecuting Attorneys Association of Michigan offered written testimony to support the bill. (12-5-00)

Analyst: J. Hunault

#This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.