

Assembly Concurrent Resolution

No. 101

Introduced by Assembly Member Jones-Sawyer

February 19, 2014

Assembly Concurrent Resolution No. 101—Relative to pawnbrokers and secondhand dealers.

LEGISLATIVE COUNSEL'S DIGEST

ACR 101, as introduced, Jones-Sawyer. Pawnbrokers and secondhand dealers: Internet transactions.

This measure would request the Department of Justice to convene meetings in 2014 with representatives from law enforcement, prosecutors, and the secondhand dealer and pawnbroker industry to determine the changes to existing law that would (1) allow California pawnbrokers and secondhand dealers to fairly compete with out-of-state internet pawnbrokers, (2) keep available to law enforcement merchandise pawned over the Internet that would otherwise go out-of-state and not be reported or held for inspection, and (3) protect California consumers transacting pawn loans over the Internet from higher interest rates and fees than those permitted in California.

Fiscal committee: yes.

1 WHEREAS, In the past decade, a new business model has
2 emerged in other states called “Internet pawn.” Operators in other
3 less regulated states are aggressively and openly operating in
4 California over the Internet, but are not in compliance with the
5 laws governing California pawnbrokers and secondhand dealers;
6 and

1 WHEREAS, Existing law requires that California pawnbrokers
2 and secondhand dealers report transactions involving tangible
3 personal property using a statewide, uniform electronic reporting
4 system developed by the Department of Justice; and

5 WHEREAS, Although pawnbrokers and secondhand dealers
6 are required to make these electronic reports, existing law poses
7 several barriers to electronic pawn loans in California; and

8 WHEREAS, Existing law requires the report made by a
9 pawnbroker or secondhand dealer to include a legible fingerprint
10 taken from the intended seller or pledger. Existing law further
11 requires a pawnbroker or secondhand dealer to retain the reported
12 tangible personal property for 30 days for possible inspection by
13 law enforcement. Out-of-state pawnbrokers are not required to
14 collect a fingerprint, nor are they subject to a 30-day hold of the
15 property; and

16 WHEREAS, As a result, a significant amount of reportable
17 merchandise pawned over the Internet that would otherwise be
18 reported to the Department of Justice goes unreported and is not
19 held for law enforcement; and

20 WHEREAS, This puts California pawnbrokers and secondhand
21 dealers at a competitive disadvantage. In addition, merchandise
22 pawned over the Internet escapes detection by law enforcement
23 and is physically absent from the state as soon as the transaction
24 is completed; and

25 WHEREAS, California has been a leader in consumer protection
26 for decades; and

27 WHEREAS, California pawnbrokers and secondhand dealers
28 provide loans at the lowest interest rates in the United States.
29 California law caps interest rates and fees applicable to these
30 transactions at very low levels. In other states, the interest rates
31 are either capped at much higher levels or are completely
32 unregulated; and

33 WHEREAS, There are impediments to a licensed pawnbroker
34 or secondhand dealer in California transacting business solely on
35 the Internet. Unlike any other lending model in California, the
36 physical presence of the borrower is required in order to obtain
37 the legally required fingerprint; and

38 WHEREAS, The convenience of transacting a pawn loan over
39 the Internet from one's home is proving to be a powerful lure to
40 Californians who would ordinarily transact that loan at a physical

1 pawn shop. As the world becomes more dependent on the Internet,
2 secondhand dealers and pawnbrokers in California will lose a
3 greater market share to out-of-state Internet pawn; Californians
4 who choose that form of pawn will also be subject to higher interest
5 rates and fees. In addition, law enforcement will lose a greater
6 percentage of tangible personal property reports and will lose the
7 ability to inspect and seize property needed for criminal
8 investigation and prosecution; and

9 WHEREAS, Good public policy demands that the Legislature
10 address this inequity that is so harmful to California business,
11 California consumers, and law enforcement; now, therefore, be it

12 *Resolved by the Assembly of the State of California, the Senate*
13 *thereof concurring*, That the Legislature requests the Department
14 of Justice to convene meetings in 2014 with representatives from
15 law enforcement, prosecutors, and the secondhand dealer and
16 pawnbroker industry to determine the changes to existing law that
17 would (1) allow California pawnbrokers and secondhand dealers
18 to fairly compete with out-of-state Internet pawnbrokers, (2) keep
19 available to law enforcement merchandise pawned over the Internet
20 that would otherwise go out-of-state and not be reported or held,
21 and (3) protect California consumers transacting pawn loans over
22 the Internet from higher interest rates and fees than those permitted
23 in California; and be it further

24 *Resolved*, The Department of Justice is requested to report its
25 findings and recommendations for statutory change to the
26 Legislature by January 1, 2015; and be it further

27 *Resolved*, That the Chief Clerk of the Assembly transmit copies
28 of this resolution to the Department of Justice and to the author
29 for appropriate distribution.

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