

1.1 A bill for an act

1.2 relating to commerce; regulating payday lending; amending Minnesota Statutes  
1.3 2012, section 47.601, subdivisions 1, 2, 3.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2012, section 47.601, subdivision 1, is amended to read:

1.6 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in  
1.7 this subdivision have the meanings given.

1.8 (b) "Borrower" means an individual who obtains a consumer short-term loan  
1.9 primarily for personal, family, or household purposes.

1.10 (c) "Commissioner" means the commissioner of commerce.

1.11 (d) "Consumer short-term loan" means a loan to a borrower which has a principal  
1.12 amount, or an advance on a credit limit, of \$1,000 or less and requires a minimum  
1.13 payment within 60 days of loan origination or credit advance of more than 25 percent of  
1.14 the principal balance or credit advance. For the purposes of this section, each new advance  
1.15 of ~~money~~ credit to a borrower under a consumer short-term loan agreement constitutes  
1.16 a new consumer short-term loan. A "consumer short-term loan" does not include any  
1.17 transaction made under chapter 325J or a loan made by a consumer short-term lender  
1.18 where, in the event of default on the loan, the sole recourse for recovery of the amount  
1.19 owed, other than a lawsuit for damages for the debt, is to proceed against physical goods  
1.20 pledged by the borrower as collateral for the loan.

1.21 (e) "Consumer short-term lender" means an individual or entity engaged in the  
1.22 business of making, offering, or arranging consumer short-term loans, other than a state or  
1.23 federally chartered bank, savings bank, or credit union.

2.1 Sec. 2. Minnesota Statutes 2012, section 47.601, subdivision 2, is amended to read:

2.2 Subd. 2. **Consumer short-term loan contract.** (a) No contract or agreement  
2.3 between a consumer short-term loan lender and a borrower residing in Minnesota may  
2.4 contain the following:

2.5 (1) a provision selecting a law other than Minnesota law under which the contract  
2.6 is construed or enforced;

2.7 (2) a provision choosing a forum for dispute resolution other than the state of  
2.8 Minnesota; or

2.9 (3) a provision limiting class actions against a consumer short-term lender for  
2.10 violations of subdivision 3 or for making consumer short-term loans:

2.11 (i) without a required license issued by, or a required registration with, the  
2.12 commissioner; or

2.13 (ii) in which interest rates, fees, charges, or loan amounts exceed those allowable  
2.14 under section 47.59, subdivision 6, or 47.60, subdivision 2, other than by de minimis  
2.15 amounts if no pattern or practice exists.

2.16 (b) Any provision prohibited by paragraph (a) is void and unenforceable.

2.17 (c) A consumer short-term loan lender must furnish a copy of the written loan  
2.18 contract to each borrower. The contract and disclosures must be written in the language in  
2.19 which the loan was negotiated with the borrower and must contain:

2.20 (1) the name; address, which may not be a post office box; and telephone number of  
2.21 the lender making the consumer short-term loan;

2.22 (2) the name and title of the individual employee or representative who signs the  
2.23 contract on behalf of the lender;

2.24 (3) an itemization of the fees and interest charges to be paid by the borrower;

2.25 (4) in bold, 24-point type, the annual percentage rate as computed under United  
2.26 States Code, chapter 15, section 1606; and

2.27 (5) a description of the borrower's payment obligations under the loan.

2.28 (d) The holder or assignee of a check or other instrument evidencing an obligation of  
2.29 a borrower in connection with a consumer short-term loan takes the instrument subject to  
2.30 all claims by and defenses of the borrower against the consumer short-term lender.

2.31 Sec. 3. Minnesota Statutes 2012, section 47.601, subdivision 3, is amended to read:

2.32 Subd. 3. **Debt collection Requirements; prohibitions.** (a) A consumer short-term  
2.33 lender collecting or attempting to collect on an indebtedness in connection with a  
2.34 consumer short-term loan must not engage in the prohibited debt collection practices  
2.35 referenced in section 332.37.

3.1 (b) A consumer short-term lender may not make a consumer short-term loan to  
3.2 a borrower who is presently indebted to the consumer short-term lender or any other  
3.3 consumer short-term lender.

3.4 (c) Subject to paragraphs (b) and (d), a consumer short-term lender may not make  
3.5 a consumer short-term loan to a borrower that will cause a borrower to have, as of the  
3.6 date of the loan and within the immediately preceding 12 months, more than ten consumer  
3.7 short-term loans. A consumer short-term lender may not make a consumer short-term loan  
3.8 to a borrower if the lender is unable to verify the number of consumer short-term loans,  
3.9 in total from all consumer short-term lenders, that the borrower has taken within the  
3.10 immediately preceding 12 months.

3.11 (d) A consumer short-term lender may not make a consumer short-term loan unless  
3.12 45 days has elapsed from satisfaction of the fourth and seventh consumer short-term loan  
3.13 within the preceding 12 months.

3.14 (e) A consumer short-term lender must independently verify whether making a  
3.15 consumer short-term loan would violate paragraphs (b), (c), and (d). Verification must  
3.16 include:

3.17 (1) examination of the consumer short-term lender's own records, including records  
3.18 maintained at the location at which the borrower is applying for the transaction and  
3.19 records maintained at other locations within the state that are owned and operated by the  
3.20 consumer short-term lender; and

3.21 (2) utilization of a consumer reporting service.

3.22 For purposes of this subdivision, a "consumer reporting service" means a real-time,  
3.23 electronically accessible service that the commissioner determines is capable of providing  
3.24 the consumer short-term lender with adequate verification information to ensure  
3.25 compliance with this paragraph.

3.26 The commissioner shall make the determination by evaluating:

3.27 (1) lenders' ease of electronically communicating with the consumer reporting  
3.28 service;

3.29 (2) the cost per communication;

3.30 (3) the technological capability of the consumer reporting service;

3.31 (4) the service's ability to generate reports to the commissioner; and

3.32 (5) the protocols in place to protect information reported by the consumer short-term  
3.33 lenders.

3.34 (f) A consumer short-term lender shall have a duty to promptly report each consumer  
3.35 short-term loan transaction to the consumer reporting service.

4.1 (g) A consumer short-term lender shall have a duty to verify whether the borrower is a  
4.2 covered borrower, as defined in Code of Federal Regulations, title 32, section 232.3(c). No  
4.3 consumer short-term lender may make a consumer short-term loan to a covered borrower:

4.4 (1) without first providing the disclosures required under Code of Federal  
4.5 Regulations, title 32, section 232.5; or

4.6 (2) which violates any of the terms and conditions set forth in Code of Federal  
4.7 Regulations, title 32, section 232.4, for the issuance of consumer credit, as defined in  
4.8 Code of Federal Regulations, title 32, section 232.3(b), except that for purposes of this  
4.9 subdivision, "consumer credit" includes open-end credit.

4.10 Sec. 4. **EFFECTIVE DATE.**

4.11 Sections 1 and 2 are effective August 1, 2014.

4.12 Section 3 is effective October 1, 2014, and applies to consumer short-term loans  
4.13 made on or after that date.