

2019 SENATE INDUSTRY, BUSINESS AND LABOR COMMITTEE

SB 2252

2019 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

SB 2252
1/29/2019
Job #31627

- Subcommittee
 Conference Committee

Committee Clerk: Amy Crane

Explanation or reason for introduction of bill/resolution:

Relating to deferred presentment service transaction fees; to provide a penalty; and to provide for application.

Minutes:

Att. #1-3

Chairman Klein: Opened the hearing on SB. A quorum was present.

Senator Piepkorn, District 44: testified in support of the bill. Introduced the bill.

Senator Piepkorn: Read testimony on behalf of Karen Ehrens. See attachment #1 for testimony in support of the bill.

Chairman Klein: With that I'm just going to reach back several years to when payday lending became a discussion. I believe back 20 some years ago we worked to develop a fairness thing, we had to come to understand that this is an important thing for some people to be able to use. payday lending. There was a lot of rules that were proposed and agreed upon. We got a very harmonious sort of industry going in North Dakota. Because North Dakotan payday lenders are regulated by the department of financial institutions. But I'm interested to hear from people in the industry to explain how we got here. When we make a law somebody has always been hurt or injured and we reach out to our legislators for help and support, so thank you for that. Not a question but a general comment.

Bill Kalanek, North Dakota Pawn Brokers Association: testified in opposition of the bill. Introduced Jay Couture from Jay's Pawn Shop, a local pawn shop owner.

Gerald (Jay) Couture, Owner, Jay's Pawn Shop: See attachment #2 for testimony in support of the bill.

Chairman Klein: I heard you say online providers, are they supposed to be following this?

Jay: They're supposed to but they don't and that's what is so dangerous. I wouldn't touch them.

(13:45)Senator Burckhard: What's your last name and how do you spell it?

Jay: Couture. I really appreciate the customers we've come to know over the last few years. We've helped a lot of people, thousands and thousands of people, when I showed them the bill, there was panic. Everybody is unanimous in that they are worried about this bill.

Chairman Klein: I've been here from the beginning and I know we went through a lot of discussion. When I started the hearing I mentioned that, because it wasn't that easy to come to the final bill that we had back then and we have made a few tweaks, because of one issue or another. But I'm going to be asking the department to see how many complaints they've had just a heads up. You know you've got good customers and there's just a small group of folks who need this option of lending loan. We've had a discussion with the banks, its just something you do that you can't get anywhere else.

Jay: Absolutely, you can't go to a bank and borrow \$50-\$100 dollars for two weeks. They don't want it. And its amazing. I meet a lot of good people and thank god you're here. We're just as dubious, if we have a new cutosmer. Thank god for the state database cause we have customers come in and say I don't know it works I don't know what to do and then you get on the database and find out they're maxed and here they are trying to blow warm air up your pants and take your money.

Chairman Klein: What I'm hearing you say is you take these names and you can see their lending history?

Jay: Well we can't see anything. We'd go to the state database to get an approval code and it tells us if the customer is eligible for \$500 or \$200, it doesn't tell us where they have loans, it just tells us what they're available for.

Chairman Klein: So you've got something to go by that you know this person is at this limit? Okay that's helpful.

Jay: Well it really does protect us too.

Kent Blickensderfer, APB Consulting representing Wyoming Financial Lenders: testified in opposition of the bill. Introduced Rich Horner.

(17:00)Rich Horner, President, Wyoming Financial Lenders: testified in opposition to the bill. Omaha based company, operate a number of Payday loan stores in the North Dakota for 18+ years. Jay's covered a lot of the technical reasons why this bill doesn't make sense. We're not in the pawn business. We're strictly a payday loan provider. But the points that he made, I would like to just touch on a couple. I was a bank examiner a long time ago. I came into this business from a banking background. I appreciate how traditional bank credit works. One point that has already been made is that banks and credit unions and other social agencies don't offer \$200-400 dollar short-term loans. The reason they don, is its simply too costly to do the paper work, advance the money, collect the money, etc. It's a small niche of underserved people that need a short term loan, we're not the first place they go to. Generally, the first place you go to is a savings account, or pull an advance on your credit card, or you would ask family if they could spot you until your next payday. Generally, our

customers don't have any of those options. They come to us after considered thought as to their alternatives. The last alternative is I don't pay a bill. It is a necessary and needed niche that our industry serves. There are generally two or three complaints or common reasons for imposing restrictions or outright banning payday loans. Our company operates in seven different states so I can speak to North Dakota and the laws and how they compare. Definitively, North Dakota has a very well regulated very strict set of statutes that work for the operators and consumers. The first argument that you hear is that we're a predatory lender and were duping customers into taking out high dollar credit and they don't understand what they are getting themselves into. Our customers on the contrary are fully aware of the terms conditions and way the product works, its disclosed on fee schedules on the wall that the DFI check up on. The second one is that people get trapped into a cycle of debt that they can never get out of. In North Dakota there's a database that limits how much a customer can borrow, in other states somebody comes into the store to take out a loan and we don't know how much they've already borrowed. The Veritec database makes every lender go out and basically get an approval code before we can loan money, caps the maximum that a customer can borrow. So under no circumstance is it even possible for the customer to have more than \$600, that they owe. Let's say that the customer borrows that money from one of our stores and they don't pay it back. They can't walk into Jay's Pawn shop and get another loan, because my loan is prohibiting them until that's paid off. The second unique thing about North Dakota laws is the three day cooling off period. So the customer can take out a loan, if they can't pay it back when its due, either two weeks or thirty days. They'll borrow the money then they'll come in before its due and say I need another month. We can extend it one time. At the end of the month by law we have to deposit their check or they have to pay it off and then they have to wait three days before they can get another loan. So the argument that a customer is trapped in a cycle of debt is just not the case in North Dakota. The laws that are in place really are very consumer friendly. They protect the consumer. This bill does not make sense would be harmful to the consumer. It would essentially cut off the consumer from small dollar loans, and at that point the only alternative would be to go to an internet lender, they don't follow the same statutes and its dangerous. The law that's in place is a good law and it's there for a reason so we oppose this bill.

Chairman Klein: You've talked about North Dakota's strict laws but I've also hear Jay talk about out of state concerns, is that where this person may have gotten into trouble? Through the internet or a tv ad?

Rich: It's quite possible, if you go on google and look up payday loans, you get all these ads and you're reaching out to an unknown entity. Many of them are based in the Cayman Islands or offshore, some native American reservation based loans are the two biggest ones. You can put in a lot of personal information, including your bank account information, and they can direct deposit money within 24 hours into your account. But then they have your banking information and they start debiting your account for payments, for interest, for fees, for late fees, for all sorts of stuff that North Dakota law doesn't allow. Or most other states as well. That doesn't stop people being able to get loans through these bad players.

Chairman Klein: So you're suggesting that if you're doing business in America, there are still some regulations but most of these unscrupulous individuals were in the Cayman Islands or offshore, non-US actors who are breaking these rules and providing these opportunities and getting people into bad situations.

Rich: In Nebraska we work closely with the department of finance and banking which is who regulates us there, and they'll report to us and the number of complaints from customers in Nebraska and North Dakota is miniscule, it's a fraction of a percent for store front businesses operating under the regulations in place. The lion's share of complaints when it comes to payday loans, is about internet loan providers. There's no way to possibly regulate these types of providers. And if this law were to be passed, it effectively would kill the storefront lenders in the state and then by process of elimination you only have one other place to go and that's the internet.

(28:53)Lise Kruse, Department of Financial Institutions: See attachment #3 for neutral testimony on the bill.

30:25Chairman Klein: They're examined by your department?

Lise: Yes, they are.

(32:10)Lise: To answer the question that has come up about complaints, in the last three years there were 0 in state complaints, 5 complaints relating to illegal internet lenders. In the last ten years there were 4 complaints about instate, and 30 complaints about internet based lenders.

Senator Burckhard: In a neutral position is this a bad bill?

Lise: When you look at it, it's up to the legislative body to decide whether payday lending should be allowed in North Dakota or not. Based on this bill, the APR was also introduced in the South Dakota in 2017 and as a result they are down to one payday lender in that state. I think you can speculate if these transactions would try to get money elsewhere, which would be in the internet and the illegal payday lenders, so it's up to the legislative body to decide if this is a service that should be available in North Dakota.

Chairman Klein: Listening to your comments, you're suggesting that we have a good law in place, its easily regulated, kind both to the consumer, the lender knows where they stand because of the reporting requirements. Because they don't want to get stuck either, if someone's getting all these loans somewhere else. So you're suggesting we have a good law in place and it's been easy to regulate for you and that's also helpful?

Lise: Yes, absolutely. Especially when we got the database in place in 2007, has really made it easy for us to monitor any transactions when we get the monthly report, if anything was amiss we would know right away and we could intervene.

Chairman Klein: In the interim when we dropped the cleanup language, these folks are chatting with you about a variety of issues, they've been good to work with?

Lise: Yes, we have no more concerns, we have no complaints, good relationship with the industry.

Chairman Klein: Jay, Vice Chairman Vedaa has a question for you.

Vice Chairman Vedaa: If somebody brings in something to pawn, for instance their wedding ring, and when they bring that back I'm assuming there's an interest that's charged, but if they don't come back to pay off their loan, is that considered a loan that's sitting out there or?

Jay: That's not part of the payday loan.

Vice Chairman Vedaa: I know that I'm just asking.

Jay: If you borrow money on your wedding ring, and you don't come back, then I keep your wedding ring.

Vice Chairman Vedaa: But those people don't owe you money anymore?

Jay: Nope, after a period of time, it's done.

Senator Kreun: Question for Lise how many internet complaints did you have in the last ten years?

Lise: 30 in the last ten years.

Chairman Klein: Closed the hearing on SB 2252

Senator Piepkorn: I apologize for not being better versed on the bill, I expected some proponents of the bill to be here so I'll say that. I expected a more robust discussion. That said, it's been educational, we do appreciate hearing from you members of the public nonetheless.

Chairman Klein: When you can hear statistics that suggest there are no complaints in North Dakota, certainly could be the internet provider that was the cause of your complaints.

Senator Kreun: Moved a Do Not Pass.

Senator Burckhard: Seconded.

A Roll Call Vote Was Taken: 5 yeas, 0 nays, 1 absent.

Motion Carried.

Senator Kreun will carry the bill.

REPORT OF STANDING COMMITTEE

SB 2252: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2252 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

SB 2252

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SB 2252

Testimony, Karen Ehrens, January 29, 2019

North Dakota Legislative Assembly, Senate Industry, Business, and Labor Committee

Senator Klein and members of the IB & L Committee:

How has it come to be that people with the least amount of assets are charged more interest than those who live in more favorable economic circumstances? Since biblical times, usury, or lending money at unreasonably high interest rates that exploit the poor, has been condemned across several religious belief systems.

I believe that access to credit has almost always been a good thing for American families. It is when organizations charge exorbitant fees and/or interest rates that this becomes a matter of concern and injustice. Five hundred percent interest on a small payday loan is not reasonable! The rate proposed in this legislation, 36 percent, even seems high, but it matches the limits on the interest caps charged members of our active duty military families. And it would extend this rate to all families, including our veterans.

I am here in part, because my brother fell into a debt trap that spiraled out of control. He worked full-time, sometimes at more than one job, to try to climb out, but remained trapped in it until his death at an early age. A rate cap seems a reasonable limit that we can take together as North Dakotans to control predatory payday lending practices. Please support 2252 with a “do pass” recommendation.

SB2252 1/29/19 Att #2

SB 2252 - DO NOT PASS

From: Gerald Couture (j.pawn1@yahoo.com)

To: jklein@nd.gov; svedaa@nd.gov; raburckhard@nd.gov; ckreun@nd.gov; jroers@nd.gov; mpiepkorn@nd.gov; dklarson@nd.gov

Cc: aptinc@aptnd.com; cludwig@nd.gov

Bcc: nicc couture@yahoo.com; js@usedabit.com; drkapaun@aol.com; dakotapawn@srt.com; rosep@wcrimail.com; minot@wflenders.com; christina@getezmoney.com

Date: Wednesday, January 23, 2019, 1:09 PM CST

Dear Chairman Klein and Members of the ND Senate Industry, Business & Labor Committee:

I am Gerald "Jay" Couture, owner of Jay's Pawn Shops for 33 years, ND licensed Deferred Presentment Service Provider for 20 years and representative of the North Dakota Pawnbrokers Association. Every day, I have customers tell me, "Thank God You're Here."

This letter is to inform and to vehemently **oppose SB 2252** relating to Deferred Presentment Service transactions. Make no mistake, this is a Bad Bill. It is designed to effectively kill the Deferred Presentment Service Industry in ND as it did in other states, to include SD.

Twenty years ago, as President of the North Dakota Pawnbrokers Association, I worked closely with my elected representatives, the Legislative Councils Office, the ND Department of Financial Institutions and the ND Attorney General, Heidi Heitkamp as we sought to establish and implement laws that would allow the industry to grow on a well regulated and professional basis. The laws which evolved recognized the strengths and weaknesses in other states. We sought to learn from prior models, build on positives and directly address negatives to provide the best product possible for consumers. I firmly believe that ND established and implemented among the best systems for this service in the nation. Today in ND, licensed lenders can offer loans up to \$500 with fees capped and time limited to 60 days.

Unfortunately, some states failed in their regulatory responsibilities as consumers misused the system or were abused by providers. Consequently, political interests, cloaked as consumer protection advocates, introduced and passed legislation that ended the industry thus, unfairly denying services to all. Let me be perfectly clear, this is **NOT** the case in ND.

Independent data and statistics provided to the ND Dept of Financial Institutions by Veritech, hosts of the ND Deferred Presentment State Database, will prove that this is a desired service responsibly providing a valued product to thousands of consumers across the state. The ND DFI has received **NO complaints** from consumers regarding ND Licensed Providers. The DFI does have concerns about unlicensed and unregulated lenders operating outside the law on the internet or protected on Native American Tribal lands. If SB 2252 is passed and consequently ends the well regulated service in ND, it will only drive consumers to the bad operators and do far more harm than good.

SB 2252 is a Bad Bill. I strongly urge the Senate Industry, Business and Labor Committee to vote a **"DO NOT PASS"** recommendation to the full Senate.

If you ever have any questions or concerns, I stand ready to address them all.

Respectfully,

Gerald "Jay" Couture
NDPA
j.pawn1@yahoo.com
701-391-2713

MEMORANDUM

DATE: January 29, 2019

TO: Senate – Industry, Business and Labor Committee

FROM: Lise Kruse, Commissioner
Department of Financial Institutions

SUBJECT: Testimony Regarding SB 2252

Chairman Klein and members of the Industry, Business and Labor Committee, please accept the Department of Financial Institution's testimony regarding SB 2252 as it relates to deferred presentment service providers (payday lenders). This testimony is to provide information about the regulatory oversight and volume of transactions in North Dakota.

The deferred presentment service provider statute (North Dakota Century Code 13-08) was enacted in 2001. At the time our Department worked with the attorney general's consumer protections office to ensure that

our law would be written to provide consumer protection. Some of the restrictions include:

- Transactions are limited to \$500 per customer.
- A customer's total outstanding debt to deferred presentment service providers located in North Dakota cannot exceed \$600.
- There must be three business days between the repayment of each transaction before a new transaction can occur. This is to ensure the customer is not paying off a payday loan with the proceeds of another.
- Customers are limited to one extension only, to reduce risk of someone becoming trapped in a perpetual debt cycle.
- Each deferred presentment service provider must use the authorized database to ensure transactions are in compliance with state law.
- Each company is required to have a bond in place of \$20,000 to protect consumers; and each company is examined on a regular basis.

Overview of industry for 2018:

- There are 13 companies with 32 active locations in North Dakota
- There were 62,004 transactions representing a total advance amount of \$21.2 million.
- A total of 21,756 transactions were renewed, representing a total renewal amount of \$8.2 million
- Average transaction amount is \$342.17.

- Customers between the ages of 18 and 64 accounted for 93% of transactions. The average age of customer is 42.9 years.
- The average number of transactions per customer in a year is 5.1. About 64% of customers conducted 5 or fewer transactions.
- 98.9% of customers took out advances with two or fewer licensee companies
- As an example, to show that the database (administered by Veritec Solutions) works as expected, in December 2018, 390 transactions were declined due to open loan in place; 3,024 transactions were declined due to maximum amount reached in state; 472 were declined due to being within the 3-day waiting period.

I appreciate the opportunity to provide information on the deferred presentment service provider industry that is overseen by our Department in North Dakota and welcome any questions you may have.