

HOUSE BILL 3228

By Watson

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 14, Part 9; Title 40, Chapter 33, Part 2; Title 45, Chapter 7, Part 2 and Title 67, Chapter 4, relative to transmitting money.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding the following language as a new, appropriately designated part:

67-4-3201. For the purpose of this part, unless the context otherwise requires:

(1) "Authorized agent" means an entity designated by a licensee under title 45, chapter 7, part 2, to sell or issue payment instruments or engage in the business of transmitting money on behalf of a licensee;

(2) "Commissioner" means the commissioner of revenue;

(3) "Department" means the department of revenue;

(4) "Licensee" means a person licensed under title 45, chapter 7, part 2;

(5) "Payment instrument":

(A) Means any check, draft, money order, travelers check or other instrument or written order for the transmission or payment of money, sold or issued to one (1) or more persons, whether or not the instrument is negotiable; and

(B) Does not include any credit card voucher, any letter of credit or any instrument that is redeemable by the issuer in goods or services;

(6) "Person" means any individual, partnership, association, joint-stock association, trust or corporation; and

(7) "Transaction" means a sale or issuance of a payment instrument or a transmission of money originating in this state within the United States or to locations abroad by any and all means, including, but not limited to, payment instrument, wire, facsimile or electronic transfer.

67-4-3202.

(a) A licensee, and any authorized agent of the licensee, shall collect from each customer a fee per transaction consisting of:

(1) Five dollars (\$5.00); and

(2) One percent (1%) of the amount of any transaction in excess of five hundred dollars (\$500).

(b) The fee imposed pursuant to subsection (a) shall be administered and collected by the commissioner. All fees, penalties, and any interest collected under this part, less the amounts withheld pursuant to subsection (c), shall be deposited into the money laundering prevention fund as established in subsection (d).

(c)

(1) For the purpose of compensating the licensee in accounting for and remitting the fee, a licensee shall be allowed a deduction of the fee due, reported and paid to the department in the amount one half of one percent (0.5%) of the fee imposed pursuant to subdivision (a)(1). No deduction from the fee shall be allowed if any such report or payment of the fee is delinquent.

(2) For the purposes of implementing and administering this section and §§ 67-4-3203 and 67-4-3204, the department shall retain one percent (1%) of the fee imposed pursuant to subdivision (a)(1).

(d)

(1) There is established within the state general fund a special account to be known as the money laundering prevention fund. Fee proceeds, interest, and penalties imposed pursuant to §§ 67-4-3204(c) and 67-4-3205 shall be deposited to the money laundering prevention fund as provided in this section. Fee proceeds, interest, and penalties collected shall be retained in the account until such time as the proceeds are unencumbered. Fee proceeds, interest, and penalties are unencumbered when there is no right to a refund of such proceeds and the time to file suit relative to collection of the fee proceeds or imposition of interest and penalties has expired.

(2) Amounts in the money laundering prevention fund:

(A) Shall not revert to the general fund of the state but shall, together with interest income credited to the fund, be carried forward into each subsequent fiscal year; and

(B) Shall be invested by the state treasurer for the benefit of the fund pursuant to § 9-4-603.

(3) The director of the Tennessee bureau of investigation shall direct unencumbered amounts in the money laundering prevention fund to programs designed to prevent and detect money laundering activities. The director of the Tennessee bureau of investigation is authorized to promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to carry out the director's responsibilities under this subdivision (d)(3).

67-4-3203.

(a) A licensee shall register for each of the licensee's business locations in this state, including each location of any authorized agent, with the commissioner upon forms prescribed and furnished by the commissioner.

(b) The fee imposed by this part shall be payable by a licensee for quarterly periods as follows:

- (1) January 1 through March 31;
- (2) April 1 through June 30;
- (3) July 1 through September 30; and
- (4) October 1 through December 31.

(c) It is the duty of all licensees, on or before the twenty-fifth day of the month immediately following the close of the periods set out in subdivisions (b)(1)-(4), to transmit to the commissioner, upon forms prescribed and furnished by the commissioner, returns containing information necessary to ensure a full collection from licensees and an accounting for the fees due. A separate return shall be filed for each separate location or place of business.

(d) The return shall be accompanied by payment of all fees due.

(e) Each licensee and authorized agent shall post a conspicuous notice in a form prescribed by the department stating that customers may file for a refund from the department of the fee paid pursuant to § 67-4-3202 and describing the guidelines established by the department pursuant to § 67-4-3204.

67-4-3204.

(a) A customer who pays a fee pursuant to § 67-4-3202 may apply to the department for a refund of such fee on or before January 31 of the year following the calendar year in which the fee is paid.

(b)

(1) To receive a refund under this section, a claimant shall file a single application with the department that shall include the aggregate amount requested by the claimant in connection with fees paid pursuant to § 67-4-3202

during the prior calendar year. Only one (1) application per claimant per year shall be accepted by the department.

(2) A refund under this section shall be made by the department directly to the claimant and shall not be made by a licensee to the claimant. All refunds under this section shall be paid from the money laundering prevention fund.

(3) All applications for refund shall be submitted as prescribed by the department and shall include satisfactory proof of payment of the fee and any other information or documentation that the department may require in addition to the claimant's social security number or federal tax identification number.

(4) The department shall develop guidelines concerning the administration of this section, which shall be posted on the web site of the department.

(c) The department may assess a civil penalty not to exceed twenty-five thousand dollars (\$25,000) against any person that knowingly files a false or fraudulent application for refund under this section. Any claimant that is assessed a penalty under this subsection (c) shall be entitled to the remedies provided in § 67-1-1801.

(d) Any refund made pursuant to this section is subject to § 67-1-1808.
67-4-3205.

(a) Chapter 1, parts 8, 13, 14, 15, 17 and 18 of this title shall apply to all fees collected and administered by the commissioner under this part, except as provided in § 67-4-3204

(b) In addition to any other action authorized by law, the department may bring suit directly on the licensee's security device pursuant to § 45-7-208 or may request that the department of financial institutions bring suit on behalf of the department for fees, interest, and penalties due and unpaid as required by this part.

SECTION 2. This act shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this act unless such funds are specifically appropriated by the general appropriations act.

SECTION 3. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2013, the public welfare requiring it.