

IN THE SENATE

SENATE BILL NO. 1285

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO PAYDAY LOAN PROCEDURES; AMENDING SECTION 28-46-412, IDAHO CODE,  
2 TO PROVIDE A LIMITATION ON THE APR OF PAYDAY LOANS AND TO MAKE A TECHNICAL  
3 CORRECTION; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE  
4 DATE.  
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 28-46-412, Idaho Code, be, and the same is  
8 hereby amended to read as follows:

9 28-46-412. PAYDAY LOAN PROCEDURES. (1) Each payday loan must be doc-  
10 umented in a written agreement signed by the borrower. The loan agreement  
11 must include the name of the licensee, the loan date, the principal amount of  
12 the loan, and a statement of the total amount of fees charged as a condition  
13 of making the loan, expressed both as a dollar amount and as an annual per-  
14 centage rate (APR).

15 (2) The maximum principal amount of any payday loan is one thousand dol-  
16 lars (\$1,000). The maximum amount of the APR expressed as a dollar amount  
17 pursuant to subsection (1) of this section shall not exceed thirty-six per-  
18 cent (36%) of the principal amount of the loan.

19 (3) A licensee may charge a fee for each payday loan. Such fee shall be  
20 deemed fully earned as of the date of the transaction and shall not be deemed  
21 interest for any purpose of law. No other fee or charges may be charged or  
22 collected for the payday loan except as specifically set forth in this act.

23 (4) Each licensee shall conspicuously post in each licensed location  
24 a notice of the fees, expressed as a dollar amount per one hundred dollars  
25 (\$100), charged for payday loans.

26 (5) (a) A payday loan may be made pursuant to a transaction whereby the  
27 licensee:

28 (i) Accepts a check from a borrower who is the maker of the check;  
29 and

30 (ii) Agrees not to negotiate, deposit or present the check for an  
31 agreed upon period of time and pays to the maker the amount of the  
32 check, less the fees permitted by this act.

33 (b) In such a transaction, the licensee may accept only one (1) post-  
34 dated check for each loan as security for the loan. Before the licensee  
35 may negotiate or present a check for payment, the check shall be en-  
36 dorsed with the actual name under which the licensee is doing business.  
37 The borrower shall have the right to redeem the check from the licensee  
38 at any time prior to the presentment or deposit of the check by making  
39 payment to the licensee of the full amount of the check in cash or imme-  
40 diately available funds.

41 (6) The amount advanced to the borrower by the licensee in a payday  
42 loan may be paid to the borrower in the form of cash, the licensee's business

1 check, a money order, an electronic funds transfer to the borrower's ac-  
2 count, or other reasonable electronic payment mechanism, provided however,  
3 that no additional fee may be charged to the borrower by a licensee to access  
4 the proceeds of the payday loan.

5 (7) A payday loan may be repaid by the borrower in cash, by negotiation  
6 of the borrower's check in a transaction pursuant to subsection (5) of this  
7 section or, with the agreement of the licensee, a debit card, a cashier's  
8 check, an electronic funds transfer from the borrower's bank account, or  
9 any other reasonable electronic payment mechanism to which the parties may  
10 agree.

11 (8) A payday lender shall not make more than two (2) electronic repre-  
12 sentments of a borrower's check to a depository institution.

13 SECTION 2. An emergency existing therefor, which emergency is hereby  
14 declared to exist, this act shall be in full force and effect on and after  
15 July 1, 2024.