

LEGISLATIVE UPDATE – PAYDAY LOANS LEGISLATION

October 2006

Payday lending first surfaced in Canada around the mid-1990s and has since grown into a multibillion-dollar industry. There are now approximately 1,350 retail payday loan stores operating in Canada.

A payday loan is a short-term loan for a relatively small sum of money. The average payday loan is valued at \$280 and is for a period of 10 days. In a recent poll consumers indicated that the most common reason for using payday loans is that it is a faster, more efficient way of obtaining smaller sums of money.¹

The federal government has recently introduced Bill C-26 that, if enacted, would amend the *Criminal Code* (the “Code”) so that the provisions regarding criminal interest rates would not apply in provinces which choose to regulate payday loans. This legislation would not apply to federally regulated financial institutions such as banks.

Currently, under the *Code* it is a criminal offence punishable by up to five years in prison or a \$25,000 fine to enter agreements where a party receives annual interest at a rate in excess of 60%. Many payday loans, when all interest and other charges are annualized, exceed this rate.

Bill C-26 would amend the *Code’s* criminal interest rate provision to accommodate the structure of payday loans. Under the proposed legislation s. 347 of the *Code* and s. 2 of the *Interest Act* would no longer be applicable to payday loan agreements if:

- 1) the loan is no greater than \$1,500 and the term is not longer than 62 days;
- 2) the person giving the loan is licensed or authorized under provincial laws; and
- 3) they are made in a province which has enacted legislation regulating payday loans.

Payday loans are defined not to include, overdraft protection, margin loans, lines of credit or credit cards.

Bill C-26 has had its first reading in the House of Commons, where it was circulated to the members. Following this, there will be a second reading where the principle of the bill will be debated. After second reading it will be sent to committee and it is likely that members of the public will be allowed to make comments on it. You can view the text of Bill C-26 at www.parl.gc.ca.

Written by Brett Harrison, Hilary Clarke and Alexander Pizale.

¹ Parliamentary Information and Research Services, “Payday Loan Companies Canada: Determining the Public Interest” (January 26, 2006) citing Ipsos Reid March 2005 poll.

The foregoing provides only an overview. Readers are cautioned against making any decisions based on this material alone. Rather, a qualified lawyer should be consulted.

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