

The Morning News

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Officials Disagree On Definition Of 'Check Cashier'

By [John Lyon](#)
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LITTLE ROCK -- When is a check cashier not a check cashier?

Disagreement between state officials on the legal definition of a check cashier has left some Arkansas businesses in the dark about whether state regulations governing check cashers apply to them.

The confusion has occurred because the state's 1999 Check Cashers Act "is hardly a model of clarity," state Attorney General Dustin McDaniel said in a recent opinion.

Under state law, a check cashier is defined as "a person who for compensation engages, in whole or in part, in the check-cashing business."

Exempted from that definition, however, is any retail seller that cashes checks for a fee "as a service to its customers that is incidental to its main purpose or business so long as revenue from such fees does not exceed 3 percent of such retail seller's gross revenues."

As state Rep. David Johnson, D-Little Rock, interprets it, the exemption applies to any business that makes less than 3 percent of its gross revenues by cashing checks. But Johnson said the State Board of Collection Agencies has a different interpretation.

"I had a constituent whose business did less than 3 percent, but the check-cashers board ... was telling them that they nevertheless had to comply with all their rules and regulations," Johnson said.

Peggy Matson, executive director of the State Board of Collection Agencies, said the board interprets the exemption to mean that the cashing of a customer's check must be incidental to a purchase.

"The board has taken the position that if the retailer wants to be exempt, not only does it have to meet the ... (condition) of its check-cashing fees being 3 percent less than the gross revenues it takes in, the customer has to be someone there buying a retail good at the time they cash the check for a fee," Matson said.

Many stores that offer check-cashing services have signs advising that the service is only for customers making purchases, Matson said.

Johnson recently requested an attorney general's opinion on the issue.

"Is a retail store considered a 'check cashier' when the store cashes checks for persons entering the store that do not purchase a consumer or other product from the retail store during the same visit?" Johnson asked.

McDaniel's office issued an opinion last week that states in part, "although the statute is in some respects

ambiguous, I believe a retailer of consumer or other goods need obtain a permit as a 'check casher' only if it realizes more than 3 percent of its gross revenue from check-cashing fees. In my opinion, whether or not the customer makes a purchase while cashing a check is of no consequence to the issue."

"Obviously, the board's opinion and the AG's opinion are in conflict," Matson said Tuesday.

Matson said she called the attorney general's office after reading the opinion, but as of Tuesday she had not received a response.

A business that the state classifies as check casher is required to post its fees in plain view of customers. It also has to post a \$50,000 surety bond, pay \$500 to obtain a permit and another \$400 each year to renew the permit, maintain liquid assets of at least \$20,000 at all times and be subject to audits, for which the business pays the costs.

Some businesses avoid being regulated by cashing checks for free. Philip Bonner, a co-owner of Bonner's Affiliated Foods in Little Rock, said throughout the 36 years the family-owned grocery has been in business, it has cashed checks for regular customers at no charge.

"It's just a service, to help them out," Bonner said.