We ve Always Had Loan Sharks; We ve Just Never Legalized Them

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Let s say there are three brothers who each need $200.

Brother A borrows the money from a small loan company at 36% annual percentage rate (APR), or $6.00 a month. If he pays back the loan in 30 days, he ll pay only $206.00.

Brother B advances the money from his credit card at 19.99% APR ($3.33/month) and a one-time 2.5% fee ($5.00). His grand total cost if paid back in 30 days is $208.33.

Unfortunately, Brother C uses the services of a payday lender. Borrowing the money at a whopping 17.5% per two weeks ($35 every two weeks; 455% APR), his 30 day payment is $270.00.

And those supporting Senate Bill 30, the Deferred Presentment Services Act, wonder why anyone would oppose it.

Cost of a $200 loan for 30 days

Small Loan Company	$6.00
Credit Card Advance	$8.33
Payday loan (at $17.50)	$70.00

How do these deferred presentments, better known as payday loans, work?

A customer writes a personal check for the amount borrowed, plus a fee for the lender. The borrower and the lender both know the borrower has insufficient funds to cover the check.

The lender advances the cash and keeps the fee. The Senate-passed bill would allow a $17.50 fee per $100 borrowed.

The lender holds the check for two weeks or until the borrower s next payday. On the payday, the customer can either redeem the check with cash or allow the check to be deposited.

If the borrower can t cover the check or pay cash, the lender collects another $35.00 fee and holds the check for another two weeks. This is called a rollover.

SB 30 will allow the payday lender to roll the loan over 3 times. After three rollovers, the borrower will have paid 70% in fees alone. In real dollars, that s $140.00 on a $200 loan. All told, he would have to pay back $340.00 for a loan of $200. That s an extremely high fee for a small amount of money.

And just for the record, nearly 40% of borrowers at payday loan stores roll their loans over.

SB 30 would exempt payday lenders from the rules that regulate lenders rules that cap the interest rate at 36% APR. How? It s all in the wording.

Payday lenders call the service they re providing a deferred presentment instead of a loan. They say that because it s not a loan, it doesn t have to follow the rules of the Small Loan Act.

We say this is wrong.

If it looks like a duck, walks like a duck and quacks like a duck, is it not a duck?

Since these look like loans (the cash advanced is the loan) and operate like loans (the check is

really collateral) shouldn t they be considered loans?

Payday lenders claim to be offering a service to people who don t qualify for small loans. That s a laudable goal. However, such a service simply does not justify raising the annual interest cap from 36% to 455%.

Remember, these loans are backed by collateral (the postdated check) of a borrower with an active checking account.

It might make sense to charge higher fees if the lender were seriously at risk of losing money. However, payday lenders are making enormous profits for their investors.

Lawmakers supporting this legislation say they are attempting to regulate an unregulated industry. In fact, this industry is regulated. Both the Attorney General and the State Banking Department say they re regulated under the Small Loan Act. But if the Legislature agrees to change the name from loan to deferred presentment, then the consumer protections of the Small Loan Act won t apply.

We need to remind ourselves what the Small Loan Act is supposed to do:

It is the intent of the Legislature in enacting this law to bring under public supervision those engaged in the business of making such loans, to eliminate practices that facilitate abuse of borrowers, to establish a system of regulation for the purpose of insuring honest and efficient small loan service and of stimulating competitive reductions in charges, to allow lenders who meet the conditions of this chapter a rate of charge sufficiently high to permit a business profit and to provide the administrative machinery necessary for effective enforcement.

Arise believes in the fair market system, but we also believe in setting limits on those who prey on other citizens, just as the Small Loan Act does and just as the rate cap on credit cards does. And that is why we say payday lenders should continue to be regulated under this act --not under an act that will make it even harder to repay a loan.

SB 30 will legalize an illegal industry, one that is flagrantly violating current law, not regulate an unregulated one.

The growth of payday loan stores into a $10 billion a year into a $10 billion-a-year industry nationwide has come at the expense of the poor and elderly. Does Alabama want to add to such outrageous profit by legalizing loan sharks?

The fact of the matter is this: We ve always had loan sharks. We ve just never legalized them.