

FIRST REGULAR SESSION

SENATE BILL NO. 440

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR DePASCO.

Read 1st time February 7, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

1808S.011

AN ACT

To repeal section 570.120, RSMo 2000, relating to stealing and related offenses, and to enact in lieu thereof one new section relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 570.120, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 570.120, to read as follows:

570.120. 1. A person commits the crime of passing a bad check when:

(1) With purpose to defraud, **[he] the person** makes, issues or passes a check or other similar sight order for the payment of money, knowing that it will not be paid by the drawee, or that there is no such drawee; or

(2) **[He] The person** makes, issues, or passes a check or other similar sight order for the payment of money, knowing that there are insufficient funds in **[his] that** account or that there is no such account or no drawee and fails to pay the check or sight order within ten days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.

2. As used in subdivision (2) of subsection 1 of this section, actual notice in writing means notice of the nonpayment which is actually received by the defendant. Such notice may include the service of summons or warrant upon the defendant for the initiation of the prosecution of the check or checks which are the subject matter of the prosecution if the summons or warrant contains information of the ten-day period during which the instrument may be paid and that payment of the instrument within such ten-day period will result in dismissal of the charges. The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

which the defendant refuses to accept.

3. The face amounts of any bad checks passed pursuant to one course of conduct within any ten-day period may be aggregated in determining the grade of the offense.

4. Passing bad checks is a class A misdemeanor, unless:

(1) The face amount of the check or sight order or the aggregated amounts is one hundred fifty dollars or more; or

(2) The [issuer] **violator** had no account with the drawee or if there was no such drawee at the time the check or order was issued, in which cases passing bad checks is a class D felony.

5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney or circuit attorney who takes any action [under] **pursuant to** the provisions of this section shall collect from the [issuer] **violator** in such action an administrative handling cost. The cost shall be [five dollars for checks of less than ten dollars, ten dollars for checks of ten dollars but less than one hundred dollars, and twenty-five dollars for checks of one hundred dollars or more.] **twenty-five dollars for any bad check. For checks of one hundred dollars or more an additional fee of ten percent of the face amount shall be assessed, with a maximum fee for administrative handling costs not to exceed seventy-five dollars total.** Notwithstanding the provisions of sections 50.525 to 50.745, RSMo, the costs provided for in this subsection shall be deposited by the county treasurer into a separate interest-bearing fund to be expended by the prosecuting attorney or circuit attorney. The funds shall be expended, upon warrants issued by the prosecuting attorney or circuit attorney directing the treasurer to issue checks thereon, only for purposes related to that [previously] authorized in this section. Any revenues that are not required for the purposes of this section may be placed in the general revenue fund of the county or city not within a county.

(2) The moneys deposited in the fund may be used by the prosecuting or circuit attorney for office supplies, postage, books, training, office equipment, capital outlay, expenses of trial and witness preparation, additional employees for the staff of the prosecuting or circuit attorney and employees' salaries.

(3) This fund may be audited by the state auditor's office or the appropriate auditing agency.

(4) If the moneys collected and deposited into this fund are not totally expended annually, then the unexpended balance shall remain in said fund and the balance shall be kept in said fund to accumulate from year to year.

6. Notwithstanding any other provisions of law to the contrary, in addition to the administrative handling costs provided for in subsection 5 of this section, the prosecuting attorney or circuit attorney may, in his discretion, collect from the [issuer] **violator**, in addition to the face amount of the check, a reasonable service charge, which along with the face amount of the check shall be turned over to the party to whom the bad check was issued. If the prosecuting attorney

or circuit attorney does not collect the service charge and the face amount of the check, the party to whom the check was issued may collect from the [issuer] **violator** a reasonable service charge along with the face amount of the check.

7. In all cases where a prosecutor receives notice from the original holder that a person has violated this section with respect to a payroll check or order, the prosecutor, if he determines there is a violation of this section, shall file an information or seek an indictment within sixty days of such notice and may file an information or seek an indictment thereafter if the prosecutor has failed through neglect or mistake to do so within sixty days of such notice and if he determines there is sufficient evidence shall further prosecute such cases.

8. When any financial institution returns a dishonored check to the person who deposited such check, it shall be in substantially the same physical condition as when deposited, or in such condition as to provide the person who deposited the check the information required to identify the person who wrote the check.

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