

SECOND REGULAR SESSION

SENATE BILL NO. 826

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR GROSS.

Pre-filed December 13, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

3460S.011

AN ACT

To repeal section 570.123, RSMo, relating to civil action for passing bad checks, 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Section A. Section 570.123, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 570.123, to read as follows:

570.123. In addition to all other penalties provided by law, any person who makes, utters, draws, or delivers any check, draft, or order for the payment of money upon any bank, savings and loan association, credit union, or other depository, financial institution, person, firm, or corporation which is not honored because of lack of funds or credit to pay or because of not having an account with the drawee and who fails to pay the amount for which such check, draft, or order was made in cash to the holder within thirty days after notice and a written demand for payment, deposited as certified or registered mail in the United States mail, **or by regular mail, supported by an affidavit of service by mailing, notice deemed conclusive three days following the date the affidavit is executed**, and addressed to the maker and to the endorser, if any, of the check, draft, or order at each of their addresses as it appears on the check, draft, or order or to the last known address, shall, in addition to the face amount owing upon such check, draft, or order, be liable to the holder for three times the face amount owed or one hundred dollars, whichever is greater, plus attorney fees incurred in bringing an action pursuant to this section. Only the original holder, whether the holder is a person, bank, savings and loan association, credit union, or other depository, financial institution, firm or corporation, may bring an action under this section. No original holder shall bring an action pursuant to this section if the original holder has been paid the face amount of the check and costs recovered by

the prosecuting attorney or circuit attorney pursuant to subsection 6 of section 570.120. If the issuer of the check has paid the face amount of the check and costs pursuant to subsection 6 of section 570.120, such payment shall be an affirmative defense to any action brought pursuant to this section. The original holder shall elect to bring an action under this section or section 570.120, but may not bring an action under both sections. In no event shall the damages allowed under this section exceed five hundred dollars, exclusive of attorney fees. In situations involving payroll checks, the damages allowed under this section shall only be assessed against the employer who issued the payroll check and not against the employee to whom the payroll check was issued. The provisions of sections 408.140 and 408.233, RSMo, to the contrary notwithstanding, a lender may bring an action pursuant to this section. The provisions of this section will not apply in cases where there exists a bona fide dispute over the quality of goods sold or services rendered.

Unofficial^T

Bill

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