

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1135

Short Title: Modify Bad Check Penalty.

(Public)

Sponsors: Representatives Flaherty, Buchanan, and Robinson.

Referred to: Judiciary.

April 10, 1989

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A WORTHLESS CHECK VIOLATION INVOLVING A CHECK FOR MORE THAN FOUR HUNDRED DOLLARS IS A CLASS H FELONY PUNISHABLE BY UP TO TEN YEARS' IMPRISONMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-107 reads as rewritten:

"§ 14-107. Worthless checks.

It shall be unlawful for any person, firm or corporation, to draw, make, utter or issue and deliver to another, any check or draft on any bank or depository, for the payment of money or its equivalent, knowing at the time of the making, drawing, uttering, issuing and delivering such check or draft as aforesaid, that the maker or drawer thereof has not sufficient funds on deposit in or credit with such bank or depository with which to pay the same upon presentation.

It shall be unlawful for any person, firm or corporation to solicit or to aid and abet any other person, firm or corporation to draw, make, utter or issue and deliver to any person, firm or corporation, any check or draft on any bank or depository for the payment of money or its equivalent, being informed, knowing or having reasonable grounds for believing at the time of the soliciting or the aiding and abetting that the maker or the drawer of the check or draft has not sufficient funds on deposit in, or credit with, such bank or depository with which to pay the same upon presentation.

The word 'credit' as used herein shall be construed to mean an arrangement or understanding with the bank or depository for the payment of any such check or draft.

Any person, firm, or corporation violating any provision of this section shall be guilty of a Class H felony if the amount of the check or draft is over four hundred

1 dollars (\$400.00). If the amount of the check or draft is not over four hundred dollars  
2 (\$400.00), any ~~Any~~ person, firm or corporation violating any provision of this section  
3 shall be guilty of a misdemeanor and upon conviction shall be punished as follows:

4 (1) If the amount of ~~such~~ the check or draft is not over fifty dollars  
5 (\$50.00), the punishment shall be by a fine not to exceed fifty dollars  
6 (\$50.00) or imprisonment for not more than 30 days. Provided,  
7 however, if such person has been convicted three times of violating  
8 G.S. 14-107, he shall on the fourth and all subsequent convictions be  
9 punished in the discretion of the district or superior court as for a  
10 general misdemeanor.

11 (2) If the amount of ~~such~~ the check or draft is over fifty dollars (\$50.00),  
12 the punishment shall be by a fine not to exceed five hundred dollars  
13 (\$500.00) or imprisonment for not more than six months, or both.  
14 Provided, however, if such person has been convicted three times of  
15 violating G.S. 14-107, he shall on the fourth and all subsequent  
16 convictions be punished in the discretion of the district or superior  
17 court as for a general misdemeanor.

18 (3) If ~~such~~ the check or draft is drawn upon a nonexistent account, the  
19 punishment shall be by a fine not to exceed one thousand dollars  
20 (\$1,000) or imprisonment for not more than two years, or both.

21 (4) If ~~such~~ the check or draft is drawn upon an account that has been  
22 closed by the drawer prior to time the check is drawn, the punishment  
23 shall be a fine not to exceed four hundred dollars (\$400.00) or  
24 imprisonment for not more than five months or both.

25 (5) In deciding to impose any sentence other than an active prison sentence, the  
26 sentencing judge shall consider and may require, in accordance with the provisions of  
27 G.S. 15A-1343, restitution to the victim for the amount of the check or draft and each  
28 prosecuting witness (whether or not under subpoena) shall be entitled to a witness fee as  
29 provided by G.S. 7A-314 which shall be taxed as part of the cost and assessed to the  
30 defendant."

31 Sec. 2. This act shall become effective October 1, 1989, and shall apply to  
32 offenses committed on or after that date.