

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1135
Committee Substitute Favorable 7/6/89

Short Title: Modify Bad Check Penalty.

(Public)

Sponsors:

Referred to:

April 10, 1989

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT A WORTHLESS CHECK VIOLATION INVOLVING
2 A CHECK FOR MORE THAN ONE THOUSAND DOLLARS IS A CLASS J
3 FELONY PUNISHABLE BY UP TO THREE YEARS' IMPRISONMENT, TO
4 PROVIDE THAT LARCENY OF PROPERTY AND RECEIPT OF STOLEN
5 GOODS VALUED AT MORE THAN ONE THOUSAND DOLLARS IS A CLASS
6 H FELONY, TO PROVIDE THAT A FRAUDULENT ATTEMPT TO OBTAIN
7 FOOD STAMPS VALUED AT MORE THAN ONE THOUSAND DOLLARS IS A
8 CLASS H FELONY, AND TO MAKE CONFORMING CHANGES.
9

10 The General Assembly of North Carolina enacts:

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

12 "**§ 14-107. Worthless checks.**

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

19 It shall be unlawful for any person, firm or corporation to solicit or to aid and abet
20 any other person, firm or corporation to draw, make, utter or issue and deliver to any
21 person, firm or corporation, any check or draft on any bank or depository for the
22 payment of money or its equivalent, being informed, knowing or having reasonable
23 grounds for believing at the time of the soliciting or the aiding and abetting that the

1 maker or the drawer of the check or draft has not sufficient funds on deposit in, or credit
2 with, such bank or depository with which to pay the same upon presentation.

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

5 Any person, firm, or corporation violating any provision of this section shall be
6 guilty of a Class J felony if the amount of the check or draft is over one thousand dollars
7 (\$1,000). If the amount of the check or draft is not over one thousand dollars (\$1,000),
8 any ~~Any~~ person, firm or corporation violating any provision of this section shall be
9 guilty of a misdemeanor and upon conviction shall be punished as follows:

10 (1) If the amount of ~~such~~ the check or draft is not over fifty dollars
11 (\$50.00), the punishment shall be by a fine not to exceed fifty dollars
12 (\$50.00) or imprisonment for not more than 30 days. Provided,
13 however, if such person has been convicted three times of violating
14 G.S. 14-107, he shall on the fourth and all subsequent convictions be
15 punished in the discretion of the district or superior court as for a
16 general misdemeanor.

17 (2) If the amount of ~~such~~ the check or draft is over fifty dollars (\$50.00),
18 the punishment shall be by a fine not to exceed five hundred dollars
19 (\$500.00) or imprisonment for not more than six months, or both.
20 Provided, however, if such person has been convicted three times of
21 violating G.S. 14-107, he shall on the fourth and all subsequent
22 convictions be punished in the discretion of the district or superior
23 court as for a general misdemeanor.

24 (3) If ~~such~~ the check or draft is drawn upon a nonexistent account, the
25 punishment shall be by a fine not to exceed one thousand dollars
26 (\$1,000) or imprisonment for not more than two years, or both.

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

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

37 Sec. 2. G.S. 14-72(a) reads as rewritten:

38 "(a) Larceny of goods of the value of more than ~~four hundred dollars (\$400.00)~~ one
39 thousand dollars (\$1,000) is a Class H felony. The receiving or possessing of stolen
40 goods of the value of more than ~~four hundred dollars (\$400.00)~~ one thousand dollars
41 (\$1,000) while knowing or having reasonable grounds to believe that the goods are
42 stolen is a Class H felony. Larceny as provided in subsection (b) of this section is a
43 Class H felony. Receiving or possession of stolen goods as provided in subsection (c) of
44 this section is a Class H felony. Except as provided in subsections (b) and (c) of this

1 section, larceny of property, or the receiving or possession of stolen goods knowing or
2 having reasonable grounds to believe them to be stolen, where the value of the property
3 or goods is not more than ~~four hundred dollars (\$400.00)~~, one thousand dollars (\$1,000) is
4 a misdemeanor punishable under G.S. 14-3(a). In all cases of doubt, the jury shall, in the
5 verdict, fix the value of the property stolen."

6 Sec. 3. G.S. 14-73 reads as rewritten:

7 **"§ 14-73. Jurisdiction of the superior courts in cases of larceny and receiving stolen**
8 **goods.**

9 The superior courts shall have exclusive jurisdiction of the trial of all cases of the
10 larceny of property, or the receiving of stolen goods knowing them to be stolen, of the
11 value of more than ~~four hundred dollars (\$400.00)~~, one thousand dollars (1,000)."

12 Sec. 4. G.S. 14-86.1(a) reads as rewritten:

13 "(a) All conveyances, including vehicles, watercraft or aircraft, used to unlawfully
14 conceal, convey or transport property in violation of G.S. 14-71, 14-71.1, or 20-106, or
15 used by any person in the commission of armed or common-law robbery, or used by any
16 person in the commission of any larceny when the value of the property taken is more
17 than ~~four hundred dollars (\$400.00)~~ one thousand dollars (\$1,000) shall be subject to
18 forfeiture as provided herein, except that:

- 19 (1) No conveyance used by any person as a common carrier in the
20 transaction of the business of the common carrier shall be forfeited
21 under the provisions of this section unless it shall appear that the
22 owner or other person in custody or control of such conveyance was a
23 consenting party or privy to a violation that may subject the
24 conveyance to forfeiture under this section;
- 25 (2) No conveyance shall be forfeited under the provisions of this section
26 by reason of any act or omission committed or omitted while such
27 conveyance was unlawfully in the possession of a person other than
28 the owner in violation of the criminal laws of the United States, or any
29 state;
- 30 (3) No conveyance shall be forfeited pursuant to this section unless the
31 violation involved is a felony;
- 32 (4) A forfeiture of a conveyance encumbered by a bona fide security
33 interest is subject to the interest of the secured party who neither had
34 knowledge of nor consented to the act or omission;
- 35 (5) No conveyance shall be forfeited under the provisions of this section
36 unless the owner knew or had reason to believe the vehicle was being
37 used in the commission of any violation that may subject the
38 conveyance to forfeiture under this section;
- 39 (6) The trial judge in the criminal proceeding which may subject the
40 conveyance to forfeiture may order the seized conveyance returned to
41 the owner if he finds forfeiture inappropriate. If the conveyance is not
42 returned to the owner the procedures provided in subsection (e) shall
43 apply."

44 Sec. 5. 108A-53(a) reads as rewritten:

1 "(a) Any person, whether provider or recipient or person representing himself as
2 such, who knowingly obtains or attempts to obtain, or aids or abets any person to obtain
3 by means of making a willfully false statement or representation or by impersonation or
4 by failing to disclose material facts or in any manner not authorized by this Part or the
5 regulations issued pursuant thereto, transfers with intent to defraud any food stamps or
6 authorization cards to which he is not entitled in the amount of ~~four hundred dollar~~
7 ~~(\$400.00)~~ one thousand dollars (\$1,000) or less shall be guilty of a misdemeanor.
8 Whoever knowingly obtains or attempts to obtain, or aids or abets any person to obtain
9 by means of making a willfully false statement or representation or by impersonation or
10 by failing to disclose material facts or in any manner not authorized by this Part or the
11 regulations issued pursuant thereto, transfers with intent to defraud any food stamps or
12 authorization cards to which he is not entitled in an amount more than ~~four hundred~~
13 ~~dollars (\$400.00)~~ one thousand dollars (\$1,000) shall be guilty of a felony and shall be
14 punished as in cases of larceny."

15 Sec. 6. This act shall become effective October 1, 1989, and shall apply to
16 offenses committed on or after that date.