

No. 1996-201

AN ACT

HB 2401

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for bad checks.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 4105(b) and (c) of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:

§ 4105. Bad checks.

* * *

(b) **[Presumption] Presumptions.**—For the purposes of this section as well as in any prosecution for theft committed by means of a bad check, *the following shall apply:*

(1) **[an] An** issuer is presumed to know that the check or order (other than a post-dated check or order) would not be paid, if:

[(1) the issuer had no account with the drawee at the time the check or order was issued; or

(2) payment was refused by the drawee for lack of funds, upon presentation within 30 days after issue, and the issuer failed to make good within ten days after receiving notice of that refusal.]

(i) payment was refused because the issuer had no such account with the drawee at the time the check or order was issued; or

(ii) payment was refused by the drawee for lack of funds, upon presentation within 30 days after issue, and the issuer failed to make good within ten days after receiving notice of that refusal.

Notice of refusal may be given to the issuer orally or in writing by any person. Proof that notice was sent by registered or certified mail, regardless of whether a receipt was requested or returned, to the address printed on the check or, if none, then to the issuer's last known address, shall raise a presumption that the notice was received.

(2) A check or order stamped "NSF" or "insufficient funds" shall raise a presumption that payment was refused by the drawee for lack of funds.

(3) A check or order stamped "account closed" or "no such account" or "counterfeit" shall raise a presumption that payment was refused by the drawee because the issuer had no such account with the drawee at the time the check or order was issued.

(c) Grading.—

(1) An offense under this section is **[a misdemeanor of the second degree if the amount of the check or order exceeds \$500 or if it is a**

third or subsequent offense within a five-year period; otherwise it is a summary offense.]:

- (i) a summary offense if the check or order is less than \$200;*
 - (ii) a misdemeanor of the third degree if the check or order is \$200 or more but less than \$500;*
 - (iii) a misdemeanor of the second degree if the check or order is \$500 or more but less than \$1,000;*
 - (iv) a misdemeanor of the first degree if the check or order is \$1,000 or more but is less than \$75,000; or*
 - (v) a felony of the third degree if the check or order is \$75,000 or more.*
- (2) When the offense is a third or subsequent offense within a five-year period, regardless of the amount of the check or order and regardless of the grading of the prior offenses, an offense under this section is a misdemeanor of the first degree unless the amount of the check or order involved in the third or subsequent offense is \$75,000 or more, then the offense is a felony of the third degree.*

* * *

Section 2. This act shall take effect in 60 days.

APPROVED—The 20th day of December, A.D. 1996.

THOMAS J. RIDGE