

Michie

79 LSO - 222

HOUSE BILL 138

HOUSE BILL 138

Title: AN ACT to create W.S. 6-3-123 through 6-3-127; and to repeal 6-3-110 through 6-3-114 relating to check fraud; providing definitions; providing conditions when check fraud is a misdemeanor or a felony; providing a bank is not liable for release of information on drawer's account; and providing for an effective date.

D.G. Jerry Michie
76 [Signature]
[Signature]

Introduced by:

DATE	ACTION	DATE	ACTION
JAN 11 1979	READ FIRST TIME	2-19-79	STANDING COMM. REPORT
	REFERRED TO COM. NO. 1		DO PASS
	DELIVERED TO COM. NO. 1		Stand DIS/0128
JAN 15 1979	RETURNED		
	Reconciliation of House and Do Pass when.		
	PLACED ON GENERAL FILE		
JAN 20 1979	CONSIDERED IN COM. OF HOUSE		
	Standing Com. Amendment HB 138 H51/A		
	ADOPTED		
	Com. of Whole Amendment HB 138 H41/A		
	ADOPTED		
	RECOMMENDED DO PASS		
JAN 22 1979	READ SECOND TIME		
JAN 23 1979	READ THIRD TIME		
	PASSED		
	Area 100 Name 2 Forward 2 About 2		
	Sent to Senate		
1-29-79	Sent to Engrossing		
	Received from House		
	Read first time		
	Referred to Com. No.		
	Delivered to Com. No.		
	Sent to LSO		
	ENGROSSED		
1-24-79	Sent to Senate		
1-24-79	Received from		

CONTINUED ON BACK

96 B 138

Thur Reading

Date

1/23/29

Roll Call of the House

of the FORTY-FIFTH LEGISLATURE

of Wyoming

	Ayes	Noes	Excused	Absent		Ayes	Noes	Excused	Absent
63 ARNOLD	✓				28 O'NEIL	✓			
62 ASAY	✓				27 ORRISON	✓			
61 BRAGG	✓				26 PERRY	✓			
60 BRYANT	✓				25 PHELAN	✓			
59 BURNETT	✓				24 PROSSER	✓			
58 CHAMBERLAIN	✓				23 ROTH	✓			
57 CROSS	✓				22 SALISBURY	✓			
56 CROWLEY	✓				21 SANDERS	✓			
55 CURRY	✓				20 SCHWOPE	✓			
54 DONLEY	✓				19 C. SCOTT	✓			
53 DUSL	✓				18 D. SCOTT	✓			
52 EDWARDS	✓				17 SHREVE	✓			
51 ESKENS	✓	✓			16 SIDI	✓			
50 GARBER	✓				15 SIMONS	✓			
49 GETTER	✓				14 SMITH	✓			
48 GROPP	✓				13 SPICER	✓			
47 HANSEN	✓				12 STAUFFER	✓			
46 HEMMERT	✓				11 STRAND	✓			
45 HUNTER	✓				10 TARTER	✓			
44 HURSH	✓				9 THORSON	✓			
43 JENNINGS	✓				8 TROWBRIDGE	✓			
42 JENSEN	✓				7 TUGMAN	✓			
41 JONES	✓				6 URBIGKIT	✓			
40 KINNISON	✓				5 VINICH	✓			
39 LARSON	✓				4 WIEDERSPAHN	✓			
38 LUMMIS	✓				3 WILKINS	✓			
37 MacMILLAN	✓				2 WINNINGER	✓			
36 MARTON	✓				1 MR. SPEAKER	✓			
35 McILVAIN	✓								
34 McMILLAN	✓								
33 MEENAN	✓								
32 MICHELI	✓								
31 MICHIE	✓								
30 MORTON	✓								
29 MURPHY	✓	✓							

PRESENT

AYES

60

NOES

2

EXCUSED

ABSENT

TOTAL

62

LESS

ENGROSS

1979

STATE OF WYOMING

79LS0-222/eng

HOUSE BILL NO. 138

Check fraud.

Sponsored by: Representatives MICHIE, JENSEN and HUNTER

A BILL

for

1 AN ACT to create W.S. 6-3-123 through 6-3-127; and to
2 repeal 6-3-110 through 6-3-114 relating to check fraud;
3 providing definitions; providing conditions when check
4 fraud is a misdemeanor or a felony; providing a bank is
5 not liable for release of information on drawer's account;
6 and providing for an effective date.

7 Be It Enacted by the Legislature of the State of Wyoming:

8 Section 1. W.S. 6-3-123 through 6-3-127 are created
9 to read:

10 6-3-123. Definitions.

1 (a) As used in this act:

2 (i) "Check" means a written unconditional
3 order to pay a sum certain in money drawn on a bank pay-
4 able on demand and signed by the drawer;

5 (ii) "Deceitfully issues" means a person when
6 at the time he issues a check has the intent to defraud or
7 deceive any other person and obtains from any other person
8 money, property or other thing of value;

9 (iii) "Drawee" means the bank or purported
10 bank upon which a check is drawn;

11 (iv) "Drawer" means a person either real or
12 fictitious whose name appears on a check as the primary
13 obligor whether the actual signature be that of himself or
14 of a person authorized to draw the check in his behalf;

15 (v) "Insufficient funds" means when the drawer
16 issues a check from the drawee and has no checking account
17 with the drawee or has funds in a checking account with
18 the drawee in an amount less than the amount of the check
19 plus the amount of all other checks outstanding at the
20 time of issuance. A check dishonored for "no account",
21 "account closed" or "nonsufficient funds" shall also be
22 deemed to be dishonored for "insufficient funds";

1 (vi) "Issue" means when a person makes, draws,
2 delivers or passes a check;

3 (vii) "This act" means W.S. 6-3-123 through
4 6-3-127.

5 6-3-124. Evidence of fraud by check; when mis-
6 demeanor or felony.

7 (a) Any person who deceitfully issues a check which
8 is not payed because the drawer has insufficient funds
9 with the drawee, has issued a fraudulent check and commits
10 fraud by check unless said check is paid by the maker
11 within ten (10) days of receiving notice, sent to the
12 address shown on the instrument of dishonor or nonpayment.

13 (b) Fraud by check is:

14 (i) A misdemeanor if the fraudulent check was
15 for a sum of less than two hundred dollars (\$200.00). Upon
16 conviction under this paragraph the defendant shall be
17 fined not more than seven hundred fifty dollars (\$750.00)
18 or imprisoned in the county jail for a period of not more
19 than six (6) months, or both;

20 (ii) A felony if the fraudulent check was for
21 the sum of two hundred dollars (\$200.00) or more, or if

1 the offender is convicted of fraud by check involving two
2 (2) or more checks within any sixty (60) day period in the
3 state of Wyoming totaling two hundred dollars (\$200.00) or
4 more in the aggregate. If convicted under this paragraph,
5 the defendant shall be fined not more than five thousand
6 dollars (\$5,000.00) or imprisoned in the state
7 penitentiary for a period not to exceed five (5) years, or
8 both.

9 6-3-125. Prima facie evidence of intent that a check
10 not to be paid.

11 (a) Any of the following shall be prima facie evi-
12 dence that the person at the time he issued the check or
13 other order for the payment of money intended that it
14 should not be paid:

15 (i) Proof that at the time of issuance he did
16 not have an account with the drawee;

17 (ii) Proof that at the time of issuance he did
18 not have sufficient funds with the drawee and that he
19 failed within ten (10) days after receiving notice of non-
20 payment or dishonor to pay the check or other order; or

21 (iii) Proof that when presentment was made in
22 a reasonable time the issuer did not have sufficient funds

1 with the drawee and he failed within ten (10) days after
2 receiving notice of nonpayment or dishonor to pay the
3 check or other order.

4 6-3-126. Acquired right to checks with insufficient
5 funds; cooperation in prosecution; deferred prosecution
6 and restitution on checks.

7 (a) Any person, having acquired rights with respect
8 to a check which is not paid because the drawer has
9 insufficient funds, may file a complaint under this act
10 whether or not he is the payee, holder or bearer of the
11 check.

12 (b) If deferred prosecution or probation is ordered,
13 the court as a condition of supervision may require the
14 defendant to make restitution on all checks issued by the
15 defendant which are unpaid as of the date of commencement
16 of the supervision in addition to other terms and condi-
17 tions appropriate for the treatment or rehabilitation of
18 the defendant.

19 6-3-127. Bank not liable on release of information
20 on drawer's account. After a warrant has been issued
21 against a drawer, a bank shall not be civilly or crimi-
22 nally liable for releasing information relating to the
23 drawer's account to a sheriff, deputy sheriff, under

1 sheriff, police officer, prosecuting attorney, assistant
2 prosecuting attorney, deputy prosecuting attorney or
3 authorized investigator or detective for a prosecuting
4 attorney, sheriff's office or police department investi-
5 gating or prosecuting a charge under this act.

6 Section 2. W.S. 6-3-110 through 6-3-114 are
7 repealed.

8 Section 2. This act is effective May 25, 1979.

9 (END)

House of Intro			
_____	To Com No.	_____	
_____	Stand Report Do	Amd	Not
_____	Com Whole Do	Amd	Not
_____	2nd Reading Amd	_____	
_____	3rd Reading Amd	Pass	Fail

Second House			
_____	To Com No.	_____	
_____	Stand Report Do	Amd	Not
_____	Com Whole Do	Amd	Not
_____	2nd Reading Amd	_____	
_____	3rd Reading Amd	Pass	Fail

INTRODUCED

1979

STATE OF WYOMING

79LSO-222.01

HOUSE BILL NO. 138

Check fraud.

Sponsored by: Representative MICHIE

A BILL

for

1 AN ACT to create W.S. 6-3-123 through 6-3-127; and to
 2 repeal 6-3-110 through 6-3-114 relating to check fraud;
 3 providing definitions; providing conditions when check
 4 fraud is a misdemeanor or a felony; providing procedures
 5 for noncooperation in prosecution; providing a bank is not
 6 liable for release of information on drawer's account; and
 7 providing for an effective date.

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6 at the time he issues a check has the intent to defraud or
7 deceive any other person and obtains from any other person
8 money, property or other thing of value;

9 (iii) "Drawee" means the bank or purported
10 bank upon which a check is drawn;

11 (iv) "Drawer" means a person either real or
12 fictitious whose name appears on a check as the primary
13 obligor whether the actual signature be that of himself or
14 of a person authorized to draw the check in his behalf;

15 (v) "Insufficient funds" means when the drawer
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20 time of issuance. A check dishonored for "no account",
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22 deemed to be dishonored for "insufficient funds";

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8 is not payed because the drawer has insufficient funds
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11 (b) Fraud by check is:

12 (i) A misdemeanor if the fraudulent check was
13 for a sum of less than two hundred dollars (\$200.00). Upon
14 conviction under this paragraph the defendant shall be
15 fined not more than seven hundred fifty dollars (\$750.00)
16 or imprisoned in the county jail for a period of not more
17 than six (6) months, or both;

18 (ii) A felony if the fraudulent check was for
19 the sum of two hundred dollars (\$200.00) or more, or if
20 the offender is convicted of fraud by check involving two
21 (2) or more checks within any thirty (30) day period in
22 the state of Wyoming totaling two hundred dollars

1 (\$200.00) or more in the aggregate. If convicted under
2 this paragraph, the defendant shall be fined not more than
3 five thousand dollars (\$5,000.00) or imprisoned in the
4 state penitentiary for a period not to exceed five (5)
5 years, or both.

6 6-3-125. Prima facie evidence of intent that a check
7 not to be paid.

8 (a) Any of the following shall be prima facie evi-
9 dence that the person at the time he issued the check or
10 other order for the payment of money intended that it
11 should not be paid:

12 (i) Proof that at the time of issuance he did
13 not have an account with the drawee;

14 (ii) Proof that at the time of issuance he did
15 not have sufficient funds with the drawee and that he
16 failed within five (5) days after receiving notice of non-
17 payment or dishonor to pay the check or other order; or

18 (iii) Proof that when presentment was made in
19 a reasonable time the issuer did not have sufficient funds
20 with the drawee and he failed within five (5) days after
21 receiving notice of nonpayment or dishonor to pay the
22 check or other order.

1 6-3-126. Acquired right to checks with insufficient
2 funds; cooperation in prosecution; deferred prosecution
3 and restitution on checks.

4 (a) Any person having acquired rights with respect
5 to a check which is not paid because the drawer has
6 insufficient funds shall have standing to file a complaint
7 under this act whether or not he is the payee, holder or
8 bearer of the check.

9 (b) If a person institutes a prosecution for viola-
10 tion of this act and fails to cooperate in the prosecution
11 of the alleged offender without reasonable cause, the
12 court having jurisdiction on motion of the prosecuting
13 attorney may give judgment against that person and in
14 favor of the county where prosecution was commenced for
15 all costs of the prosecution including a reasonable allow-
16 ance for the time of the prosecuting attorney. Before
17 judgment, the prosecuting attorney shall give notice to
18 that person that he has an opportunity to be heard before
19 the court.

20 (c) If deferred prosecution or probation is ordered,
21 the court as a condition of supervision may require the
22 defendant to make restitution on all checks issued by the
23 defendant which are unpaid as of the date of commencement
24 of the supervision in addition to other terms and condi-

1 tions appropriate for the treatment or rehabilitation of
2 the defendant.

3 6-3-127. Bank not liable on release of information
4 on drawer's account. A bank shall not be civilly or crimi-
5 nally liable for releasing information relating to the
6 drawer's account to a sheriff, deputy sheriff, under
7 sheriff, police officer, prosecuting attorney, assistant
8 prosecuting attorney, deputy prosecuting attorney or
9 authorized investigator or detective for a prosecuting
10 attorney, sheriff's office or police department investi-
11 gating or prosecuting a charge under this act.

12 Section 2. W.S. 6-3-110 through 6-3-114 are
13 repealed.

14 Section 2. This act is effective May 25, 1979.

15 (END)

FISCAL NOTE

Anticipated <u>REVENUE</u> to:	Fiscal Year 19	Fiscal Year 19
School Districts	SEE DISCUSSION	
TOTAL ESTIMATED REVENUE	=====	=====
Anticipated <u>COST</u> to:	Fiscal Year 19	Fiscal Year 19
TOTAL ESTIMATED COST	=====	=====

1. Any fines assessed for violation of this statute would be deposited to the school districts.
2. No apparent personnel impact.

H.B.138

HB 138

HB138HS1/A

BC 1/18/79

- ✓ Page 1-line 4 After the semicolon ";" delete "providing procedures".
- ✓ Page 1-line 5 Delete "for noncooperation in prosecution;"
- ✓ Page 3-line 21 After "any" delete "thirty (30)" insert "sixty (60)".
- ✓ Page 4-line 16 After "within" delete "five (5)" insert "ten (10)".
- ✓ Page 4-line 20 After "within" delete "five (5)" insert "ten (10)".
- ✓ Page 5-line 4 After "person" insert a comma ",".
- ✓ Page 5-line 6 After "funds" delete "shall have standing to" insert a comma ", may".
- ✓ Page 5-lines 9 thru 19 Delete.
- ✓ Page 5-line 20 Delete "(c)" insert "(b)".
- ✓ Page 6-line 4 After "account." delete "A" insert "After a warrant has been issued against a drawer, a".
-CROWLEY, CHAIRMAN

ADOPTED

HB138HW1/A

- ✓ Page 3-line 10 After "check" insert "unless said check is paid by the maker within ten (10) days of receiving notice, sent to the address shown on the instrument of dishonor or non-payment".
-HURSH

ADOPTED

THE LEGISLATURE OF THE STATE OF WYOMING

House of Representatives

Cheyenne, January 18, 1979

Mr. Speaker:

Your Committee No. 1 on Judiciary

to whom was referred House Bill No. 138

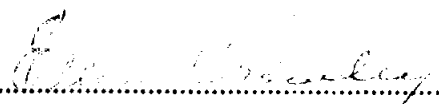
respectfully reports same back to the House with the recommendation that it DO PASS with amendments:

- Page 1-line 4 After semicolon delete "providing procedures".
- Page 1-line 5 Delete "for noncooperation in prosecution;".
- Page 3-line 21 After "any" delete "thirty (30)" insert "sixty (60)".
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- Page 5-lines 9 through 19 Delete
- Page 5-line 20 Delete "(c)" insert "(b)".
- Page 6-line 4 After "account." delete "A" insert "After a warrant has been issued against a drawer, a".

AYES

NOES

Unanimous


 Ellen Crowley
 Chairman