

HOUSE BILL No. 2611

AN ACT concerning crimes and punishment; relating to worthless checks; amending K.S.A. 2001 Supp. 21-3707 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2001 Supp. 21-3707 is hereby amended to read as follows: 21-3707. (a) Giving a worthless check is the making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering of any check, order or draft on any bank, credit union, savings and loan association or depository for the payment of money or its equivalent with intent to defraud and knowing, at the time of the making, drawing, issuing or delivering of such check, order or draft, that the maker or drawer has no deposit in or credits with the drawee or has not sufficient funds in, or credits with, the drawee for the payment of such check, order or draft in full upon its presentation.

(b) In any prosecution against the maker or drawer of a check, order or draft payment, of which has been refused by the drawee on account of insufficient funds, the making, drawing, issuing or delivering of such check shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or on deposit with, the drawee: (1) Unless the maker or drawer pays the holder thereof the amount due thereon and a service charge not exceeding ~~\$10~~ \$30 for each check, within seven days after notice has been given to the maker or drawer that such check, draft or order has not been paid by the drawee. As used in this section, "notice" includes oral or written notice to the person entitled thereto. Written notice shall be presumed to have been given when deposited as restricted matter in the United States mail, addressed to the person to be given notice at such person's address as it appears on such check, draft or order; or (2) if a postdated date is placed on the check, order or draft without the knowledge or consent of the payee.

(c) In addition to all other costs and fees allowed by law, each prosecuting attorney who takes any action under the provisions of this section may collect from the issuer in such action an administrative handling cost, except in cases filed in a court of appropriate jurisdiction. The cost shall not exceed \$10 for each check. If the issuer of the check is convicted in district court, the administrative handling costs may be assessed as part of the court costs in the matter. The moneys collected pursuant to this subsection shall be deposited into a trust fund which shall be administered by the board of county commissioners. The funds shall be expended only with the approval of the board of county commissioners, but may be used to help fund the normal operating expenses of the county or district attorney's office.

(d) It shall not be a defense to a prosecution under this section that the check, draft or order upon which such prosecution is based:

(1) Was postdated, unless such check, draft or order was presented for payment prior to the postdated date; or

(2) was given to a payee who had knowledge or had been informed, when the payee accepted such check, draft or order, that the maker did not have sufficient funds in the hands of the drawee to pay such check, draft or order upon presentation, unless such check, draft or order was presented for payment prior to the date the maker informed the payee there would be sufficient funds.

(e) (1) Giving a worthless check is a severity level 7, nonperson felony if the check, draft or order is drawn for \$25,000 or more.

(2) Giving a worthless check is a severity level 9, nonperson felony if the check, draft or order is drawn for at least \$500 but less than \$25,000.

(3) Giving a worthless check is a class A nonperson misdemeanor if the check, draft or order is drawn for less than \$500.

(4) Giving a worthless check, draft or order drawn for less than \$500 is a severity level 9, nonperson felony if committed by a person who has, within five years immediately preceding commission of the crime, been convicted of giving a worthless check two or more times.

Sec. 2. K.S.A. 2001 Supp. 21-3707 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.