

HOUSE BILL No. 2326

By Representative Holland

2-1

9 AN ACT concerning crimes and punishment; relating to worthless
10 checks; amending K.S.A. 2006 Supp. 21-3707 and repealing the exist-
11 ing section.
12

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

14 Section 1. K.S.A. 2006 Supp. 21-3707 is hereby amended to read as
15 follows: 21-3707. (a) Giving a worthless check is the making, drawing,
16 issuing or delivering or causing or directing the making, drawing, issuing
17 or delivering of any check, order or draft on any bank, credit union,
18 savings and loan association or depository for the payment of money or
19 its equivalent with intent to defraud and knowing, at the time of the
20 making, drawing, issuing or delivering of such check, order or draft, that
21 the maker or drawer has no deposit in or credits with the drawee or has
22 not sufficient funds in, or credits with, the drawee for the payment of
23 such check, order or draft in full upon its presentation.

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

39 (c) In addition to all other costs and fees allowed by law, each prosec-
40 cuting attorney who takes any action under the provisions of this section
41 may collect from the issuer in such action an administrative handling cost,
42 except in cases filed in a court of appropriate jurisdiction. The cost shall
43 not exceed \$10 for each check. If the issuer of the check is convicted in

1 district court, the administrative handling costs may be assessed as part
2 of the court costs in the matter. The moneys collected pursuant to this
3 subsection shall be deposited into a trust fund which shall be administered
4 by the board of county commissioners. The funds shall be expended only
5 with the approval of the board of county commissioners, but may be used
6 to help fund the normal operating expenses of the county or district at-
7 torney's office.

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

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

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

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

20 (B) Giving a worthless check more than once within a seven-day pe-
21 riod is a severity level 7, nonperson felony, if the combined total of the
22 checks, drafts or orders is \$25,000 or more.

23 (2) (A) Giving a worthless check is a severity level 9, nonperson fel-
24 ony if the check, draft or order is drawn for at least \$1,000 but less than
25 \$25,000.

26 (B) Giving a worthless check more than once within a seven-day pe-
27 riod is a severity level 9, nonperson felony, if the combined total of the
28 checks, drafts or orders is at least \$1,000 but less than \$25,000.

29 (3) Giving a worthless check is a class A nonperson misdemeanor if
30 the check, draft or order is drawn for less than \$1,000.

31 (4) Giving a worthless check, draft or order drawn for less than \$1,000
32 is a severity level 9, nonperson felony if committed by a person who has,
33 within five years immediately preceding commission of the crime, been
34 convicted of giving a worthless check two or more times.

35 (f) *In addition to any term of imprisonment imposed on the offender*
36 *pursuant to this section, if the offender was convicted of giving a worthless*
37 *check and had no account with the drawee, the offender shall be:*

38 (1) *Fined not less than \$5,000, if convicted of violating subsection*
39 *(e)(1)(A) or (e)(1)(B);*

40 (2) *fined not less than \$1,000, if convicted of violating subsection*
41 *(e)(2)(A), (e)(2)(B) or (e)(4); and*

42 (3) *fined not less than \$500, if convicted of violating subsection (e)(3).*
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- 1 Sec. 2. K.S.A. 2006 Supp. 21-3707 is hereby repealed.
- 2 Sec. 3. This act shall take effect and be in force from and after its
- 3 publication in the statute book.