

Bad checks in any form create problems for the business community and the police department. We hope the information contained in this letter will be helpful in dealing with the problem of bad checks.

Senate Bill 4366 which became effective in June 10, 1982, amends RCW 9A.56.060, the prohibition against unlawful issuance of checks to set some minimum standards for punishing first-time gross misdemeanants and repeat offenders.

The language of the new law states that the court "Shall order the defendant who writes a check for under \$250.00 to make full restitution" and "Shall impose" a minimum fine of \$500.00 of which at least \$50.00 "Shall not be suspended or deferred." On conviction of a second gross misdemeanor NSF offense in a twelve-month period, the court may not suspend or defer any of the \$500.00 fine. The maximum penalty for a gross misdemeanor remains at up to a year in jail and/or a fine of \$5000.00.

There are two classes of checks which we cannot prosecute.

1. **STOP PAYMENT CHECKS**

Stop payment checks are civil matters. It is virtually impossible to prove criminal intent. Those cases where a check has been returned to victim/firm as a stop payment are not accepted.

2. **POST DATED CHECKS**

Post dated checks are the promissory notes and are civil matters. Victims are advised to pursue the matter in civil court.

We require that the following procedure be utilized before presenting a bad check to us for potential criminal prosecution.

1. Mail a certified letter to the check writer allowing him/her ten days in which to make the check good.
2. NOTE: The letter should contain the following:
 - a. The name of the issuing bank and the check number
 - b. The date the check was written and the dollar amount.
 - c. The types of I.D. accepted for verification.
3. Retain a copy of the letter and the green certified mailing card bearing the signature of whoever accepted the letter from the postal service.
4. If, at the end of the ten-day grace period, the check has not been made good, we may be able to prosecute. You will need to provide us with the ORIGINAL check, a cop of the letter you sent, the certified mail receipt and the green card with signature or the letter & envelope if it's returned unclaimed or non-deliverable.
5. After taking a written statement from you and any witnesses involved, the Investigations Division will present your case to the prosecuting attorney for the filing of charges if at all possible. **However, all witnesses must be willing to appear in court and testify, under oath, that the defendant charged is the person who wrote the check and/or other facts.**
6. **Once you've given the check to us for prosecution, DO NOT accept payment from the check writer to redeem the bad check without first contacting the investigations division.**

The following information is intended to provide you with a guideline to be considered for your check cashing policy.

IDENTIFICATION

Multiple identification is probably the MOST IMPORTANT thing the merchant should concern himself with when accepting checks. Your sales people should take time to check identification carefully and compare it with the check writer. Insist on at least one piece of identification bearing a photo of the person, and request at least one piece of identification with a hand writing specimen for comparison. Remember that stolen and forged checks are usually presented with stolen identification. Do not assume that presentation of your own company credit card or check I.D. card is sufficient identification in itself. Be cautious on weekends or holidays, and after banking hours when account information is not available. Call the credit card companies to verify cards for lost or stolen reports before accepting them as good identification.

ENDORSEMENT

Make sure the check being presented is endorsed in the salesperson's presence. If pre-endorsed, turn over the check and have the party endorse it a second time for comparison. Beware of illegible endorsements. If the endorsement is illegible, refuse to accept the check. Compare identification against the check for correct name spelling. Don't accept checks with a second party endorsement as all parties to the check are usually necessary to prosecute and are often not cooperative or available for investigation. Lack of evidence often prevents filing criminal charges on second party checks.

BE ABLE TO DETERMINE WHO ACCEPTED THE CHECK

Have the salesperson accepting the check initial or otherwise mark the check so you can later determine who accepted the check. Consider having your salespeople make a notation on the back of the check if there is something unusual about the check writer that will help them to identify the person at a later date. **Remember without identification of a suspect from whoever accepted the check, prosecution is unlikely for lack of identification.**

OTHER RECOMMENDED PRECAUTIONS

1. Do not accept out of state checks. A good policy is to refuse checks drawn on banks located out of the southeast King County area.
2. Beware of starter checks issued without imprinted names and addresses. Too often they result in NSF, closed account, or forgeries. Consider not accepting any starter checks that have no imprinted names.
3. Beware of company payroll checks, as they might be stolen or counterfeit. Call the company for verification if in doubt.
4. Be sure to note the correct address, telephone, credit card, drivers license, or other identification numbers and record them correctly **ON THE BACK OF THE CHECK**.
5. Do not accept a temporary drivers license or other temporary identification.
6. Record a vehicle license number on the check if one is available, also note the make and color of the vehicle.
7. Remember that social security cards are not considered to be good identification.

RCW 9A.56.060

Unlawful issuance of checks or drafts.

(1) Any person who shall with intent to defraud, make, or draw, or utter, or deliver to another person any check, or draft, on a bank or other depository for the payment of money, knowing at the time of such drawing, or delivery, that he has not sufficient funds in, or credit with said bank or other depository, to meet said check or draft, in full upon its presentation, shall be guilty of unlawful issuance of bank check. The word "credit" as used herein shall be construed to mean an arrangement or understanding with the bank or other depository for the payment of such check or draft, and the uttering or delivery of such a check or draft to another person without such fund or credit to meet the same shall be prima facie evidence of an intent to defraud.

(2) Any person who shall with intent to defraud, make, or draw, or utter, or deliver to another person any check, or draft on a bank or other depository for the payment of money and who issues a stop-payment order directing the bank or depository on which the check is drawn not to honor said check, and who fails to make payment of money in the amount of the check or draft or otherwise arrange a settlement agreed upon by the holder of the check within twenty days of issuing said check or draft shall be guilty of unlawful issuance of a bank check.

(3) When any series of transactions which constitute unlawful issuance of a bank check would, when considered separately, constitute unlawful issuance of a bank check in an amount of two hundred fifty dollars or less because of value, and the series of transactions are a part of a common scheme or plan, the transactions may be aggregated in one count and the sum of the value of all of the transactions shall be the value considered in determining whether the unlawful issuance of a bank check is to be punished as a class C felony or a gross misdemeanor.

(4) Unlawful issuance of a bank check in an amount greater than two hundred fifty dollars is a class C felony.

(5) Unlawful issuance of a bank check in an amount of two hundred fifty dollars or less is a gross misdemeanor and shall be punished as follows:

(a) The court shall order the defendant to make full restitution;

(b) The defendant need not be imprisoned, but the court shall impose a minimum fine of five hundred dollars. Of the fine imposed, at least fifty dollars shall not be suspended or deferred. Upon conviction for a second offense within any twelve-month period, the court may suspend or defer only that portion of the fine which is in excess of five hundred dollars.

FRAUDULENT CHECK REPORT AND REQUEST TO PROSECUTE CASE # _____

THIS DEPARTMENT WILL NOT ACCEPT A COMPLAINT WHEN THE CHECK PASSER CANNOT BE POSITIVELY IDENTIFIED. A WASHINGTON PRCTURED DRIVERS LICENSE AND ONE OTHER PIECE OF IDENTIFICATION, PASSER'S DATE OF BIRTH, EMPLOYER AND EMPLOYER'S PHONE NUMBER IS REQUIRED TO BE EXAMINED, COMPARED AND RECORDED ON THE FRONT OF EACH CHECK.

Date Check Accepted _____ Time Check Accepted _____ Date Returned by Bank _____

REASON CHECK RETURNED BY BANK

Irregular Signature Account Closed No Account Non Sufficient Funds Other

Address Where Check Was Accepted _____

Victim/Firm Name _____ Phone Number _____

Firm Address _____

Name of Person/Employee Who Accepted Check _____

Position Held _____ Home Phone # _____ Work Phone _____

Home Address _____ City _____ State _____ Zip _____

Name of Additional Witness _____

Position Held _____ Home Phone # _____ Work Phone _____

Home Address _____ City _____ State _____ Zip _____

Name of Additional Witness _____

Position Held _____ Home Phone # _____ Work Phone _____

Home Address _____ City _____ State _____ Zip _____

CHECK INFORMATION:

Bank _____ Branch _____ State _____

Date _____ Account Number _____

Imprinted name on Check _____ Amount of Check _____

Check was written for: Cash Merchandise Rent Service

What Identification was shown by check writer _____

DESCRIPTION OF CHECK PASSER:

Name Used _____ Phone Number _____

Male _____ Female _____ Address _____

Age _____ Date of Birth _____ Race _____ Build _____

Color of eyes _____ Color of Hair _____ Height _____ Weight _____

Clothing and other particulars of suspect _____

I witnessed the check passer write the check: Yes No

I have contacted the check passer since the check was returned Yes No

How was contact made with check passer Phone In person Certified Letter Regular Mail

Please attach any letters written to check passer and any certified letter documents.

I believe I can identify the check passer from a group of photos Yes No

_____ Did compare check passer with photo presented on
(Clerk, employee, teller, etc.)

Passer's drivers license/identification card and upon their matching, passer's license/identification card number and date of birth were placed on the check(s) given to the Enumclaw Police Department as evidence to this case. The above procedure is a practice which I do with all checks received.

_____ Certifies that at the time the check(s) was presented
(Owner, manager, CFO, etc.)

there was no notice of information given than the account was closed or that there were insufficient funds in the bank. The merchandise/cash/service the passer received was given in consideration for the check(s) and in reliance on the validity of the check(s). There was no agreement to accept the check as postdated.

_____ Indemnifies and holds harmless the City of
(Firm, or victim's name)

Enumclaw from any and all claims arising from any unlawful arrest made by the Enumclaw Police Department in writing of any agreement that was made with the check passer prior to or following the filing of this report.

WITNESSES INVOLVED AGREE TO TESTIFY IN COURT IF CALLED UPON FOR CHARGES ARISING FROM THIS REPORT.

This information is true and correct to the best of my knowledge.

Signed _____
Title/position _____
Date _____

Attach additional sheets if needed for further information.