

As Introduced

**125th General Assembly
Regular Session
2003-2004**

H. B. No. 401

Representative Raga

A BILL

To amend sections 2913.11 and 2913.21 of the Revised Code to increase the penalties for the offense of passing bad checks, to expand the offense to apply to electronic transactions, and to include in the offense a provision regarding stop payment orders on checks.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2913.11 and 2913.21 of the Revised Code be amended to read as follows:

Sec. 2913.11. (A) As used in this section:

(1) "Check" includes any form of debit from a demand deposit account, including, but not limited to any of the following:

(a) A check, bill of exchange, draft, order of withdrawal, or similar negotiable or non-negotiable instrument;

(b) An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check, or any form of automated clearing house transaction.

(2) "Issue a check" means causing any form of debit from a demand deposit account.

(B) No person, with purpose to defraud, shall issue or

transfer or cause to be issued or transferred a check or other 20
negotiable instrument, knowing that it will be dishonored or 21
knowing that a person has ordered or will order stop payment on 22
the check or other negotiable instrument. 23

~~(B)~~(C) For purposes of this section, a person who issues or 24
transfers a check or other negotiable instrument is presumed to 25
know that it will be dishonored if either of the following occurs: 26

(1) The drawer had no account with the drawee at the time of 27
issue or the stated date, whichever is later; 28

(2) The check or other negotiable instrument was properly 29
refused payment for insufficient funds upon presentment within 30
thirty days after issue or the stated date, whichever is later, 31
and the liability of the drawer, indorser, or any party who may be 32
liable thereon is not discharged by payment or satisfaction within 33
ten days after receiving notice of dishonor. 34

~~(C)~~(D) For purposes of this section, a person who issues or 35
transfers a check, bill of exchange, or other draft is presumed to 36
have the purpose to defraud if the drawer fails to comply with 37
section 1349.16 of the Revised Code by doing any of the following 38
when opening a checking account intended for personal, family, or 39
household purposes at a financial institution: 40

(1) Falsely stating that the drawer has not been issued a 41
valid driver's or commercial driver's license or identification 42
card issued under section 4507.50 of the Revised Code; 43

(2) Furnishing such license or card, or another 44
identification document that contains false information; 45

(3) Making a false statement with respect to the drawer's 46
current address or any additional relevant information reasonably 47
required by the financial institution. 48

~~(D)~~(E) In determining the value of the aggregated payment for 49

purposes of division (F) of this section, the court may aggregate 50
all checks and other negotiable instruments that the offender 51
issued or transferred or caused to be issued or transferred in 52
violation of division (A) of this section within a period of one 53
hundred eighty consecutive days. 54

(F) Whoever violates this section is guilty of passing bad 55
checks. Except as otherwise provided in this division, passing bad 56
checks is a misdemeanor of the first degree. If the ~~check~~ checks 57
or other negotiable ~~instrument is~~ instruments are for an 58
aggregated payment of five hundred dollars or more ~~and is for the~~ 59
~~payment of~~ but less than five thousand dollars, ~~or if the offender~~ 60
previously has been convicted of or pleaded guilty to a theft 61
offense, passing bad checks is a felony of the ~~fifth~~ fourth 62
degree. If the ~~check~~ checks or other negotiable ~~instrument is~~ 63
~~instruments are~~ for ~~the~~ an aggregated payment of five thousand 64
dollars or more ~~and is for the payment of~~ but less than one 65
hundred thousand dollars, ~~or if the offender previously has been~~ 66
convicted of or pleaded guilty to two or more theft offenses, 67
passing bad checks is a felony of the ~~fourth~~ third degree. If the 68
~~check~~ checks or other negotiable ~~instrument is~~ instruments are for 69
~~the~~ an aggregated payment of one hundred thousand dollars or more, 70
passing bad checks is a felony of the ~~third~~ second degree. 71

Sec. 2913.21. (A) No person shall do any of the following: 72

(1) Practice deception for the purpose of procuring the 73
issuance of a credit card, when a credit card is issued in actual 74
reliance thereon; 75

(2) Knowingly buy or sell a credit card from or to a person 76
other than the issuer. 77

(B) No person, with purpose to defraud, shall do any of the 78
following: 79

(1) Obtain control over a credit card as security for a debt;	80
(2) Obtain <u>Subject to section 2913.11 of the Revised Code,</u> <u>obtain</u> property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained, or is being used in violation of law;	81 82 83 84 85
(3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;	86 87 88
(4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that the representation is false.	89 90 91
(C) No person, with purpose to violate this section, shall receive, possess, control, or dispose of a credit card.	92 93
(D)(1) Whoever violates this section is guilty of misuse of credit cards.	94 95
(2) Except as otherwise provided in division (D)(4) of this section, a violation of division (A), (B)(1), or (C) of this section is a misdemeanor of the first degree.	96 97 98
(3) Except as otherwise provided in this division or division (D)(4) of this section, a violation of division (B)(2), (3), or (4) of this section is a misdemeanor of the first degree. If the cumulative retail value of the property and services involved in one or more violations of division (B)(2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is five hundred dollars or more and is less than five thousand dollars, misuse of credit cards in violation of any of those divisions is a felony of the fifth degree. If the cumulative retail value of the property and	99 100 101 102 103 104 105 106 107 108 109

services involved in one or more violations of division (B)(2), 110
(3), or (4) of this section, which violations involve one or more 111
credit card accounts and occur within a period of ninety 112
consecutive days commencing on the date of the first violation, is 113
five thousand dollars or more and is less than one hundred 114
thousand dollars, misuse of credit cards in violation of any of 115
those divisions is a felony of the fourth degree. If the 116
cumulative retail value of the property and services involved in 117
one or more violations of division (B)(2), (3), or (4) of this 118
section, which violations involve one or more credit card accounts 119
and occur within a period of ninety consecutive days commencing on 120
the date of the first violation, is one hundred thousand dollars 121
or more, misuse of credit cards in violation of any of those 122
divisions is a felony of the third degree. 123

(4) If the victim of the offense is an elderly person or 124
disabled adult, and if the offense involves a violation of 125
division (B)(1) or (2) of this section, division (D)(4) of this 126
section applies. Except as otherwise provided in division (D)(4) 127
of this section, a violation of division (B)(1) or (2) of this 128
section is a felony of the fifth degree. If the debt for which the 129
card is held as security or the cumulative retail value of the 130
property or services involved in the violation is five hundred 131
dollars or more and is less than five thousand dollars, a 132
violation of either of those divisions is a felony of the fourth 133
degree. If the debt for which the card is held as security or the 134
cumulative retail value of the property or services involved in 135
the violation is five thousand dollars or more and is less than 136
twenty-five thousand dollars, a violation of either of those 137
divisions is a felony of the third degree. If the debt for which 138
the card is held as security or the cumulative retail value of the 139
property or services involved in the violation is twenty-five 140
thousand dollars or more, a violation of either of those divisions 141
is a felony of the second degree. 142

Section 2. That existing sections 2913.11 and 2913.21 of the Revised Code are hereby repealed.

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