

As Passed by the House

125th General Assembly

Regular Session

2003-2004

Am. Sub. H. B. No. 401

**Representatives Raga, Latta, D. Evans, Aslanides, Beatty, Book, Brown,
Buehrer, Carano, Carmichael, Cirelli, Daniels, DeBose, DeGeeter, Distel,
Domenick, Driehaus, C. Evans, Flowers, Gibbs, Hagan, Hartnett, Harwood,
Hollister, Hoops, Hughes, Martin, Miller, Olman, Otterman, T. Patton, Perry,
Price, Reidelbach, Schaffer, Schmidt, Seaver, Slaby, G. Smith, Webster,
Willamowski, Wilson, Wolpert**

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A B I L L

To amend section 2913.11 of the Revised Code to 1
expand the offense of passing bad checks to apply 2
to electronic transactions, to include in the 3
offense a provision regarding stop payment orders 4
on checks, and to include in the offense a 5
provision regarding aggregation of checks issued 6
within 180 days for purposes of determining an 7
offender's penalty. 8

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

Section 1. That section 2913.11 of the Revised Code be 9
amended to read as follows: 10

Sec. 2913.11. (A) As used in this section: 11

(1) "Check" includes any form of debit from a demand deposit 12
account, including, but not limited to any of the following: 13

(a) A check, bill of exchange, draft, order of withdrawal, or 14

similar negotiable or non-negotiable instrument; 15

(b) An electronic check, electronic transaction, debit card 16
transaction, check card transaction, substitute check, web check, 17
or any form of automated clearing house transaction. 18

(2) "Issue a check" means causing any form of debit from a 19
demand deposit account. 20

(B) No person, with purpose to defraud, shall issue or 21
transfer or cause to be issued or transferred a check or other 22
negotiable instrument, knowing that it will be dishonored or 23
knowing that a person has ordered or will order stop payment on 24
the check or other negotiable instrument. 25

~~(B)~~(C) For purposes of this section, a person who issues or 26
transfers a check or other negotiable instrument is presumed to 27
know that it will be dishonored if either of the following occurs: 28

(1) The drawer had no account with the drawee at the time of 29
issue or the stated date, whichever is later; 30

(2) The check or other negotiable instrument was properly 31
refused payment for insufficient funds upon presentment within 32
thirty days after issue or the stated date, whichever is later, 33
and the liability of the drawer, indorser, or any party who may be 34
liable thereon is not discharged by payment or satisfaction within 35
ten days after receiving notice of dishonor. 36

~~(C)~~(D) For purposes of this section, a person who issues or 37
transfers a check, bill of exchange, or other draft is presumed to 38
have the purpose to defraud if the drawer fails to comply with 39
section 1349.16 of the Revised Code by doing any of the following 40
when opening a checking account intended for personal, family, or 41
household purposes at a financial institution: 42

(1) Falsely stating that the drawer has not been issued a 43
valid driver's or commercial driver's license or identification 44

card issued under section 4507.50 of the Revised Code;

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

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

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~~(D)~~(E) In determining the value of the payment for purposes
of division (F) of this section, the court may aggregate all
checks and other negotiable instruments that the offender issued
or transferred or caused to be issued or transferred in violation
of division (A) of this section within a period of one hundred
eighty consecutive days.

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(F) Whoever violates this section is guilty of passing bad
checks. Except as otherwise provided in this division, passing bad
checks is a misdemeanor of the first degree. If the check or
checks or other negotiable instrument ~~is~~ or instruments are issued
or transferred to a single vendor or single other person for the
payment of five hundred dollars or more ~~and is for the payment of~~
but less than five thousand dollars or if the check or checks or
other negotiable instrument or instruments are issued or
transferred to multiple vendors or persons for the payment of one
thousand dollars or more but less than five thousand dollars,
passing bad checks is a felony of the fifth degree. If the check
or checks or other negotiable instrument ~~is~~ or instruments are for
the payment of five thousand dollars or more ~~and is for the~~
~~payment of~~ but less than one hundred thousand dollars, passing bad
checks is a felony of the fourth degree. If the check or checks or
other negotiable instrument ~~is~~ or instruments are for the payment
of one hundred thousand dollars or more, passing bad checks is a
felony of the third degree.

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(G) Unless otherwise prohibited by state or federal law, a

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person who receives a check that has been dishonored because of 76
insufficient funds may present that check for immediate payment to 77
the financial institution on whose paper the check is written as 78
soon as the account is determined to have sufficient funds. A 79
financial institution that honors a check pursuant to this 80
division shall not charge a fee, including a fee for issuing a 81
replacement check, for honoring that check. 82

Section 2. That existing section 2913.11 of the Revised Code 83
is hereby repealed. 84