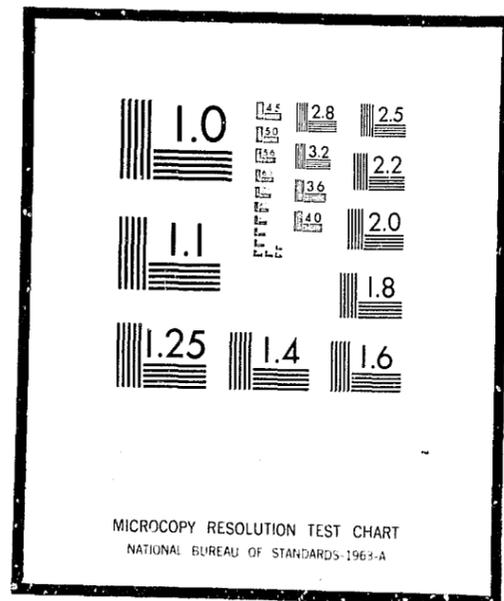


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U.S. DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE
WASHINGTON, D.C. 20531

Date filmed, 1/28/76

SOUTH CAROLINA LAW ENFORCEMENT ETV TRAINING PROGRAM

BASIC CRIMINAL LAW

(Worthless Checks)

PART XII STUDY WORKBOOK

prepared by SOUTH CAROLINA LAW ENFORCEMENT DIVISION • in cooperation with SOUTH CAROLINA EDUCATIONAL TELEVISION NETWORK

SOUTH CAROLINA LAW ENFORCEMENT ^{Educational} ~~BY~~ TRAINING PROGRAM

FROM CRIME TO COURT

Basic Criminal Law
Part ~~XII~~ ^{XIII}
(Worthless Checks), Study Workbook

Study Workbook

LAW ENFORCEMENT - E.T.V. TRAINING PROGRAM

"Basic Criminal Law"

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Sponsored by

South Carolina Law Enforcement Division
in cooperation with
South Carolina Educational Television Network

Endorsed by

South Carolina Governor, Robert E. McNair
South Carolina Sheriffs' Association
South Carolina Law Enforcement Officers' Association
South Carolina Police Chiefs' Executive Association
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Program Objectives

The material contained herein relates to its accompanying TV presentation. It enlarges upon the general topic of "Basic Criminal Law" and deals with worthless checks.

BASIC CRIMINAL LAW

Worthless Checks

Generally, when we refer to the term "worthless check," we will be talking about a check for which there is (1) _____ funds in the bank on which the check is drawn to cover its payment.

Answer: (1) _____

Other names for worthless checks include (2) _____, (3) _____, (4) _____, (5) _____.

Answers: (2) _____
(3) _____
(4) _____
(5) _____

The offense of drawing or uttering a fraudulent check is/is not (6) _____ a common law offense.

Answer: (6) _____

The offense of drawing or uttering a worthless check is a statutory offense in South Carolina by virtue of Sections 8-176 and 8-177 of the South Carolina Code of Laws. Section 8-176 reads as follows:

"It shall be unlawful for any person, in his own name or in any other capacity whatsoever, to obtain money or other property of any kind or nature whatever with fraudulent intent or to obtain credit with like intent by means of a check, draft or order of which such person is maker or drawer or which though he is not maker or drawer he, with like intent, utters or delivers or aids or abets another to utter or deliver."

Section 8-177 prescribes:

"If such check, draft, or order is not paid by the drawee, the person making, drawing or uttering it shall be guilty of a misdemeanor. The fact that such check, draft or order was not paid by the drawee because the maker or drawer did not have on deposit with the bank or person upon which such draft, check or order was drawn sufficient funds to pay it in full when presented and the further fact that the maker or drawer of such check, draft or order failed to pay the amount of it within seven days after written notice sent to his last known address shall, as against the maker or drawer of such check, draft or order, be prima facie evidence of fraudulent intent."

The principal element of the bad check law is not having enough funds in the bank to cover the amount of the check.

Consider the following situation:

Suppose that A gives B a check. At the time that A gives B the check, A has sufficient funds in the bank to cover it; however, when B attempts to cash it at the bank, A no longer has enough money in his account to pay the check.

A would be/would not be (7) _____ guilty of making a fraudulent check.

Answer: (7) _____

In South Carolina, therefore, an accused is guilty of a violation of the bad check law if, at the time he issued the check, there were sufficient funds in the bank to cover it but when the check was presented for payment, there were insufficient funds on hand to pay it.

What about the following situation:

Suppose that when A wrote the check, he did not have enough money in the bank to cover it; but when the check was presented for payment, he had sufficient funds for the bank to pay it.

A violation would/would not (8) _____ occur.

Answer: (8) _____

It should be kept in mind that under our statutes a violation of the worthless check law will usually occur when the drawer of the check had insufficient funds on deposit for the payment of the check at the time it was presented for payment.

A (9) _____ is the person, organization, or corporation on which the check is drawn.

Answer: (9) _____

The best example of an organization on which the check is drawn - that is, the best example of a drawee, would be a (10) _____.

Answer: (10) _____

The person who writes a check may be called either a (11) _____ or a (12) _____.

Answers: (11) _____

(12) _____

Before one can be convicted of having violated the worthless check law, it must be shown that he acted with (13)

Answer: (13) _____

Fraudulent intent means intentionally misleading another into taking a course of action by making a representation known to be false. There are, then, factors which must be present in order for one to have a fraudulent intent. One, there must be an intentional misleading of another person into taking a course of action; and two, the intentional misleading must be done by making a representation known to be false. If one does not have fraudulent intent, he cannot be guilty of violating the bad check law.

Consider the following situation and determine whether the customer had fraudulent intent.

A clerk asks a customer to write him a check for \$34.00 in order to purchase a coat. The customer protests that he does not have any money on his person or in the bank. Furthermore, he does not know when he will have any. The customer tells the clerk that any check that he would give him would not be any good. The clerk tells the customer to let him worry about that. The customer says, "Well, all right," and writes him a check.

The customer had/did not have (14) _____
fraudulent intent.

Answer: (14) _____

In order to have fraudulent intent, there must be an intentional misleading of another person into taking a course of action. In the above example, the customer did not mislead the clerk. Where the maker of a check discloses to the payee - that is, the person to whom the check is payable - that he does not, at the time, have sufficient funds on deposit and the payee agrees to accept the check anyway, the defendant is not guilty of violating the bad check law.

It would be/would not be (15) _____
unlawful for one person simply to give another a check, which the person represents as a good check, but which check is, in fact, worthless.

Answer: (15) _____

In order for the giving of a bad check to another to constitute a violation of the worthless check law, it must have been given in order to obtain (16) _____,
(17) _____, (18) _____,

or (19) _____.

Answers: (16) _____

(17) _____

(18) _____

(19) _____

Consider the following situation:

One man gives another a check for \$5,000.00 and in giving him the check says to him, "The reason why I am giving you a check for \$5,000.00 is because I like you." The man to whom the check is given excitedly runs home to tell his wife about his good fortune. After he leaves, the man who gave the check and another man laugh about making a fool out of the other in giving him the \$5,000.00 check.

A violation of the worthless check law did/did not (20) _____ occur.

Answer: (20) _____

follows: The worthless check law defines the word "credit" as

"The word 'credit' shall be ... construed to mean securing further advances of money or goods by means of a check given in whole or in part payment of a then existing account."

Suppose a person has an existing account at a local store and he sends to them a twenty dollar check as payment on his account.

Should the check bounce, the person would/would not be (21) _____ guilty of violating the bad check law.

Answer: (21) _____

The giving of a bogus check to pay a pre-existing indebtedness in whole or in part does not constitute a crime.

When a bogus check is given in order to pay off either in whole or in part an existing debt and in order to obtain either a further allowance of money or more goods, a violation of the worthless check law will/will not (22) _____ arise.

Answer: (22) _____

The term "service" means to perform work for another or to render aid to another.

There is/is not (23) _____ a notice provision connected with the bogus check law.

Answer: (23) _____

Section 8-177 declares that the presence of two facts will create a statutory presumption of fraud.

If the drawee could not pay the check when it was presented because the drawer did not have sufficient funds on deposit and if the drawer fails to pay the check within (24) _____ days after written notice of the check's dishonor has been sent to his last known address, then and in such event he is to be determined prima facie to have had fraudulent intent at the time that he issued the bogus check.

Answer: (24) _____

Suppose the maker of a bogus check is not given written notice that the check was not paid by the bank.

He could not be/could be (25) _____ prosecuted under the bad check law.

Answer: (25) _____

It is not mandatory that notice of a check's dishonor be given to the maker thereof; however, if the notice is not given, the defendant will not be presumed to have acted with fraudulent intent. Fraud may be shown by other evidence.

In order to charge a person with violating the bad check law, it is/is not (26) _____ necessary for the person to whom the check is given to present it to the bank for payment.

Answer: (26) _____

Ordinarily, it will be rather difficult to prove fraudulent intent without at least showing that the payee presented the check for payment; but in order to charge a person with violating the bad check law, there is no need to show that the payee presented the check for payment. If there is evidence that the maker or utterer of a check obtained money, services, other property, or credit with a fraudulent intent by means of a check, such person would be guilty of violating the bad check law regardless whether the check was presented for payment or not.

An (27) _____ is a person who puts something into circulation.

Usually, the worthless check law will not be applicable to an endorser; but where a person has endorsed a bogus check, obtains money, for example, by uttering or delivering it to another person with fraudulent intent, the endorser will be guilty of violating the bad check law.

The statutory presumption of fraud is applicable to the maker or drawer of a check. It does not create a presumption of fraud against an endorser.

A person who issues a bad check and signs to it a fictitious name would be guilty of (28) _____.

Answer: (28) _____

The fact that restitution has been made would/would not (29) _____ end a worthless check prosecution.

Answer: (29) _____

There is/is not (30) _____ a statute of limitations which would bar a prosecution for worthless checks after the passage of a certain length of time.

Where one person gives another a postdated check with the understanding that the check will not be presented for payment until the day it is dated, such person violates/does not violate (31) _____ the bad check law.

Answer: (31) _____

Our law regards a postdated check as a (32) _____.

Answer: (32) _____

Where the amount of a check is less than one hundred dollars, the offense would be tried in the (33) _____ court; however, where the check is in the amount of one hundred dollars or more, it is to be tried in the (34) _____ court.

Answer: (33) _____

(34) _____

ANSWER SHEET

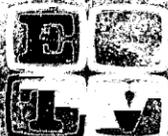
1. insufficient
2. bad checks
3. rubber checks
4. bogus checks (any order)
5. fraudulent checks
6. is not
7. would be
8. would not
9. drawee
10. bank
11. maker
12. drawer
13. fraudulent intent
14. did not have
15. would not be
16. money
17. other properties
18. service
19. credit
20. did not
21. would not be
22. will
23. is
24. seven
25. could be
26. is not
27. utterer
28. forgery
29. would not
30. is not
31. does not
32. promise to pay
33. magistrate
34. General Sessions

STATEWIDE LAW ENFORCEMENT EDUCATION THROUGH TELEVISION

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