

By: Senator(s) Lee

To: Judiciary

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2704

1 AN ACT TO AMEND SECTION 97-19-57, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE TIME PERIOD TO TENDER PAYMENT ON A BAD CHECK; TO
3 AMEND SECTION 97-19-61, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT
4 THERE IS NO WAITING PERIOD FOR BAD CHECKS DRAWN ON A CLOSED
5 ACCOUNT; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 SECTION 1. Section 97-19-57, Mississippi Code of 1972, is
8 amended as follows:

9 97-19-57. (1) As against the maker or drawer thereof, the
10 making, drawing, issuing, uttering or delivering of a check, draft
11 or order, payment of which is refused by the drawee, shall be
12 prima facie evidence and create a presumption of intent to defraud
13 and of knowledge of insufficient funds in, or on deposit with,
14 such bank, corporation, firm or person, provided such maker or
15 drawer shall not have paid the holder thereof the amount due
16 thereon, together with a service charge of Thirty Dollars
17 (\$30.00), within fifteen (15) days after receiving notice that
18 such check, draft or order has not been paid by the drawee.

19 (2) For purposes of Section 11-7-12, the form of the notice
20 provided for in subsection (1) of this section shall be sent by
21 regular mail and shall be substantially as follows: "This
22 statutory notice is provided pursuant to Section 97-19-57,
23 Mississippi Code of 1972. You are hereby notified that a check,
24 draft or order numbered _____, apparently issued by you on _____
25 (date), drawn upon _____ (name of bank), and payable to _____, has
26 been dishonored. Pursuant to Mississippi law, you have fifteen
27 (15) days from receipt of this notice to tender payment of the
28 full amount of such check, draft or order, plus a service charge

29 of Thirty Dollars (\$30.00), the total amount due being \$_____.
30 Failure to pay this amount in full within the time specified above
31 shall be prima facie evidence of and create a presumption of both
32 the intent to defraud and the knowledge of insufficient funds in,
33 or on deposit with, such bank in violation of Section 97-19-55."

34 (3) For purposes of Section 97-19-67, the form of the notice
35 provided for in subsection (1) of this section shall be sent by
36 certified or registered mail and shall be substantially as
37 follows: "This statutory notice is provided pursuant to Section
38 97-19-57, Mississippi Code of 1972. You are hereby notified that
39 a check, draft or order numbered _____, apparently issued by you
40 on _____ (date), drawn upon _____ (name of bank), and payable to
41 _____, has been dishonored. Pursuant to Mississippi law, you have
42 fifteen (15) days from receipt of this notice to tender payment of
43 the full amount of such check, draft or order, plus a service
44 charge of Thirty Dollars (\$30.00), the total amount due being
45 \$_____. Unless this amount is paid in full within the time
46 specified above, the holder may assume that you delivered the
47 instrument with intent to defraud and may turn over the dishonored
48 instrument and all other available information relating to this
49 incident to the proper authorities for criminal prosecution."

50 (4) If any notice is returned undelivered to the sender
51 after such notice was mailed to the address printed on the check,
52 draft or order, or to the address given by the accused at the time
53 of issuance of the instrument, such return shall be prima facie
54 evidence of the maker's or drawer's intent to defraud.

55 (5) Without in any way limiting the provisions of this
56 section, this section shall apply to a draft for the payment of
57 money given for a motor vehicle even if such payment is
58 conditioned upon delivery of documents necessary for transfer of a
59 valid title to the purchaser.

60 SECTION 2. Section 97-19-61, Mississippi Code of 1972, is
61 amended as follows:

62 97-19-61. Such notice as is provided for in Section 97-19-57
63 is dispensed with: (a) in the event the situs of the drawee is not
64 in the state of Mississippi; (b) if the drawer is not a resident
65 of the state of Mississippi or has left the state of Mississippi
66 at the time such check, draft or order is dishonored; or (c) if
67 the drawer of such check, draft or order did not have an account
68 with the drawee of such check, draft or order at the time the same
69 was issued or dishonored, or payment of the check is denied
70 because the account was closed at the time the check, draft or
71 order was issued or dishonored.

72 SECTION 3. This act shall take effect and be in force from
73 and after July 1, 2001.