

By: Representative Simpson

To: Judiciary B

HOUSE BILL NO. 1339

1 AN ACT TO AMEND SECTION 97-19-57, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE REQUIRED STATUTORY NOTICE, DESCRIBING THE
3 ALLOWABLE CRIMINAL PENALTIES, THAT MUST BE GIVEN TO A PERSON WHO
4 HAS ALLEGEDLY WRITTEN A BAD CHECK MAY BE SENT BY REGULAR MAIL
5 SUPPORTED BY AN AFFIDAVIT OF SERVICE BY MAILING; AND FOR RELATED
6 PURPOSES.

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

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

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

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



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

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

55 "AFFIDAVIT OF SERVICE BY MAIL IN THE COUNTY OF
56 _____
57 (name of county and state)
58 _____
59 (name of person mailing the notice of
60 dishonor), being first duly sworn under oath, states that he/she
61 is of legal age and that on _____ (date), he/she served the
62 attached statutory notice of dishonor, by placing a true and
correct copy of it securely enclosed in an envelope, addressed as
follows:



63 _____ (name and address
64 of maker or drawer of check that has been dishonored), and that
65 he/she deposited the envelope, with postage prepaid, in the United
66 States Mail at _____ (describe location
67 of post office or post office deposit box).

68 _____
69 _____ (signature of person who mailed notice)

70 _____ Subscribed and sworn to before me this _____ day of _____

71 _____ (notary public)

72 _____ County of _____

73 (SEAL) "

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

79 (5) Without in any way limiting the provisions of this
80 section, this section shall apply to a draft for the payment of
81 money given for a motor vehicle even if such payment is
82 conditioned upon delivery of documents necessary for transfer of a
83 valid title to the purchaser.

84 **SECTION 2.** This act shall take effect and be in force from
85 and after July 1, 2002.

