

By: Senator(s) Robertson

To: Judiciary

SENATE BILL NO. 2565

1 AN ACT TO AMEND SECTION 97-19-57, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE METHOD OF DELIVERY OF NOTICE NECESSARY UNDER THE BAD  
3 CHECK LAW; AND FOR RELATED PURPOSES.

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

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

7 97-19-57. (1) As against the maker or drawer thereof, the  
8 making, drawing, issuing, uttering or delivering of a check, draft  
9 or order, payment of which is refused by the drawee, shall be  
10 prima facie evidence and create a presumption of intent to defraud  
11 and of knowledge of insufficient funds in, or on deposit with,  
12 such bank, corporation, firm or person, provided such maker or  
13 drawer shall not have paid the holder thereof the amount due  
14 thereon, together with a service charge of Thirty Dollars  
15 (\$30.00), within fifteen (15) days after receiving notice that  
16 such check, draft or order has not been paid by the drawee.

17 (2) For purposes of Section 11-7-12, the form of the notice  
18 provided for in subsection (1) of this section shall be sent by  
19 regular mail and shall be substantially as follows: "This  
20 statutory notice is provided pursuant to Section 97-19-57,  
21 Mississippi Code of 1972. You are hereby notified that a check,  
22 draft or order numbered \_\_\_\_\_, apparently issued by you on \_\_\_\_\_  
23 (date), drawn upon \_\_\_\_\_ (name of bank), and payable to \_\_\_\_\_, has  
24 been dishonored. Pursuant to Mississippi law, you have fifteen  
25 (15) days from receipt of this notice to tender payment of the  
26 full amount of such check, draft or order, plus a service charge  
27 of Thirty Dollars (\$30.00), the total amount due being \$\_\_\_\_\_.



28 Failure to pay this amount in full within the time specified above  
29 shall be prima facie evidence of and create a presumption of both  
30 the intent to defraud and the knowledge of insufficient funds in,  
31 or on deposit with, such bank in violation of Section 97-19-55."

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

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

54 (5) Affidavit of service by mail shall be adequate if made  
55 in substantially the following form:

56 "STATE OF \_\_\_\_\_

57 COUNTY OF \_\_\_\_\_

58 \_\_\_\_\_, being first duly sworn on oath, deposes and  
59 states that he/she is at least eighteen (18) years of age and that  
60 on (date) \_\_\_\_\_, 2\_\_\_\_, he/she served the attached Notice



61 of Dishonor by placing a true and correct copy thereof securely  
62 enclosed in an envelope addressed as follows:

63 \_\_\_\_\_  
64 \_\_\_\_\_  
65 \_\_\_\_\_

66 and deposited the same, postage prepaid, in the United States mail  
67 at \_\_\_\_\_.

68 \_\_\_\_\_  
69 (signature)

70 Subscribed to and sworn before me, this the \_\_\_\_\_ day of  
71 \_\_\_\_\_, 2 \_\_\_\_\_.

72 \_\_\_\_\_  
73 (Notary Public)

74 My commission expires:

75 (SEAL) "

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

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

