

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 _____, 20_____.

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.

