

Introduced: 4/12/71  
Referred: Commerce and  
Judiciary

1 IN THE HOUSE

BY MCVEIGH

2 HOUSE BILL NO. 410

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: An Act relating to dishonored checks.

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

8 \* Section 1. AS 11.20.220 is repealed and re-enacted to read:

9 Sec. 11.20.220. EVIDENCE OF KNOWLEDGE OF INSUFFICIENT FUNDS.

10 (a) The making, drawing, uttering or delivering of a check, draft or  
11 order, payment of which is refused by the drawee, is prima facie evi-  
12 dence of knowledge of insufficient funds or credit with the bank or  
13 other depository, against the maker or drawer, if the maker or drawer  
14 has not paid the drawee the amount due within 15 days after drawee has  
15 sent a formal notice of dishonor of the check, draft or order to the  
16 drawer at his last known address.

17 (b) If the instrument does not provide for the payment of interest  
18 or collection costs and attorney fees, the drawer of the instrument  
19 also is liable for payment of interest at the legal rate permissible  
20 under AS 45.45.010 from the date of dishonor and cost of collection  
21 not to exceed \$20 or the face amount of the check, whichever is the  
22 lesser. In addition, if there is court action on the instrument, the  
23 court, after notice and the expiration of 15 days, shall award reason-  
24 able attorney fees as part of the damages payable to the holder of the  
25 check, draft or order. This section does not apply to an instrument  
26 which has been dishonored by reason of a justifiable stop payment order.

27 (c) In order to recover interests, costs and any attorney fees  
28 as provided in this section, the drawee of a dishonored check, draft  
29 or order must send a "notice of dishonor" to the drawer at his last

1 known address. The notice shall be in substantially the following  
2 form:

3 NOTICE OF DISHONOR OF CHECK

4 A check drawn by you and made payable by you to ..... in  
5 the amount of ..... has not been accepted for payment by  
6 ..... which is the drawee bank designated on your check.  
7 This check is dated ....., and it is numbered, No. ....

8 You are CAUTIONED that unless you pay the amount of this check  
9 within fifteen days after the date this letter is postmarked, you may  
10 very well have to pay the following additional amounts:

11 (1) costs of collecting the amount of the check, including  
12 an attorney's fee which will be set by the court; and

13 (2) interest on the amount of the check which shall accrue  
14 at the legal rate permissible under AS 45.45.010 from the date of  
15 dishonor.

16 You are advised to make your payment to ..... at the  
17 following address: .....

18 Consequences for failing to comply with requirements. No interest,  
19 collection costs and attorney fees may be recovered on any dishonored  
20 check under the provisions of AS 11.20.220 where the holder of the  
21 check or an agent, employee or assign of the holder has demanded:

22 (1) interest or collection costs in excess of that provided  
23 by law;

24 (2) interest or collection costs before the expiration of  
25 15 days after the certified mailing of notice of dishonor, as provided  
26 by this section;

27 (3) attorney fees, either without having the fees set by  
28 the court, or before the expiration of 15 days after the certified  
29 mailing of notice of dishonor.

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\* Sec. 2. AS 11.20.240 is amended by adding a new paragraph to read:

(3) Notwithstanding the provisions of (1) of this section, a person convicted of issuing checks without funds under sec. 210 of this chapter, upon proof in a court of law that the person habitually issues checks with intent to defraud may be adjudged a felon and be punished by imprisonment in the penitentiary for not less than one year nor more than 10 years. For the purpose of this paragraph, it is sufficient to show that a person convicted under (1) of this section has had a record of at least two previous convictions for issuing checks without sufficient funds.