

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11239 SENATE LABOR & COMMERCE



February 12, 2004

Senator Con Bunde
Alaska State Capitol, Room 506
Juneau, AK 99801
Re: Senate Bill 299

Dear Senator Bundy,

We would like to go on record supporting the passage of Senate Bill 299.

The current bad check statute allows us to collect up to \$25 to cover "costs incurred" for collecting a bad check. The problem is that this creates an accounting burden for businesses to track and record all costs instead of assigning a fixed penalty. The proposed change in the statute would set a reasonable handling fee that is not subject to challenge. This is the same way that many other states deal with this problem.

Alaska's businesses should not have additional burdens placed upon them by having to document costs incurred to collect their bad checks.

We strongly urge you to support SB 299 to make this simple change.

Sincerely,

A handwritten signature in cursive script that reads 'Ted M. Wells'. The signature is written in dark ink and is positioned above the typed name.

Ted M. Wells, Controller
Sagaya Corporation



GOLDEN VALLEY ELECTRIC ASSOCIATION INC. PO Box 71249 • Fairbanks, Alaska 99707-1249 • 907-452-1151 • www.gvea.com

February 12, 2004

Senator Con Bunde
Alaska State Capitol, Rm. 506
Juneau, AK 99801
Fax: 907-465-3871

Re: Senate Bill 299

Dear Senator Bunde:

I want to go on record supporting the passage of Senate Bill 299. Our current bad check statute allows us to collect up to \$25 to cover "costs incurred" for collecting the bad check. The problem is that this creates an accounting burden for businesses to track and record all costs instead of assigning a fixed penalty. The proposed change in the statute would set a reasonable handling fee that is not subject to challenge. That's the way many other states deal with the same problem.

Golden Valley Electric Association has been in business in Alaska since 1947 and we don't feel the vast majority of our member's should have to shoulder the burden of costs incurred to collect on bad checks written by the very few.

We strongly urge you to support SB 299 to make the simple change.

Sincerely,

A handwritten signature in black ink, appearing to read 'Scott Peters', is written over the word 'Sincerely,'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Scott Peters
Consumer Accounting Manager
Golden Valley Electric Association



TESORO

Tesoro Northshore
P.O. Box 196970
Anchorage, Alaska 99519-3970
907 563 2711 Phone
907 261 7283 Fax

February 17, 2004

Senator Con Bunde
Alaska State Capitol, Rm 506
Juneau, AK 99801

Re: Senate Bill 299

Senator Bunde:

I want to go on record supporting the passage of Senate Bill 299. Our current bad check statute allows our check processing contractor to collect up to \$25 to cover "costs incurred" for collecting a bad check. This creates an accounting burden for businesses to track and record all costs involved in check collection instead of assigning a fixed amount. The proposed change in the statute would set a reasonable handling fee, in the same manner in which many other states deal with the same situation.

Alaska's businesses should not have additional burdens placed upon them by having to document every cost incurred to collect bad checks, costs which we will have to pass along to the consumer.

I strongly urge you to support SB 299 to make this change.

Sincerely,

Richard T. Bucy
Regional Manager



February 13, 2004

Senator Con Bunde
Alaska State Capitol, Room 506
Juneau, AK 99801
VIA Fax: 907-465-3871

RE: Senate Bill 299: Relating to a charge for a bad check

Senator Bunde:

As Finance Director of the City of Valdez, I support the passage of Senate Bill 299. The current bad check statute requires that to collect up to \$25 to cover "costs incurred" for collecting bad checks, we must account for our time and expenses for every bad check. There is a considerable burden and expense just in the accounting for the costs of a bad check collection, much less the indirect costs of lost cash flow. For a municipality which is undergoing fiscal stress, this is a waste of taxpayers resources.

The proposed change in the statute would set a reasonable handling fee that is fixed, and requires a much simpler approach to the problem.

I urge you to support SB 299 to make this change.

A handwritten signature in cursive script that reads "Christine A. Sasse".

Christine A. Sasse
Finance Director

cc: Dave Dengel, City Manager



Border Entertainment, LLC
dba Blockbuster Video

206 E. Northern Lights Blvd.
Anchorage, Alaska 99503

Phone (907) 277-8525
Facsimile (907) 277-8532

Anchorage
Fairbanks
Juneau
Kenai
Wasilla
Soldotna
Eagle River
Kodiak
North Pole

February 12, 2004

Senator Con Bunde
Alaska State Capitol, Room 506
Juneau, Alaska 99801

Re: Senate Bill 299

Dear Senator Bunde:

I want to go on record supporting the passage of Senate Bill 299. Our current bad check statute allows us to collect up to \$25 to cover "costs incurred" for collecting bad checks. The problem is that this creates an accounting burden for businesses to track and record all costs instead of assigning a fixed penalty. The proposed change in the statute would set a reasonable handling fee that is not subject to challenge. That's the way many other states deal with the same problem.

Alaska's businesses should not have additional burdens placed upon them by having to document costs incurred to collect their bad checks.

We strongly urge you to support SB 299 to make this simple change.

Respectfully yours,

Craig Cobb
Vice President



RED ROBIN ALASKA, INC.
4450 Cordova Street, Suite 200
Anchorage, AK 99503
907.563.7777
907.561.2525 FAX

February 19, 2004

Senator Johnny Ellis
Alaska State Capitol, Room 9
Juneau, AK 99801

Re: Senate Bill 289

Dear Senator Ellis,

I support the passage of SB 299.

Alaska companies incur substantial costs in the management of their business and should have any extra hardship when it comes to the accounting burden placed on them with the current statute covering 'bad check' fees related to "costs incurred".

SB 299 would provide for a fair and reasonable approach to both the person writing the 'bad check' and the business that accepted it in good faith. It is not fair or equitable to require a business to 'track and record all costs' instead of assigning a fixed amount.

I respectfully request you to support SB 299.

Thank you.

Sincerely,

Fred Rosenberg

NORTHWAY RED ROBIN
3401 Penland Parkway
Anchorage, AK 99508
907.276.7788
907.276.4057 FAX

DIAMOND RED ROBIN
401 East Dimond Boulevard
Anchorage, AK 99515
907.522.4321
907.522.4324 FAX

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redrobin.com

Feb 20 04 01:21p

Van



Dear Legislator
20 February 2004

I want to go on record supporting the passage of Senate Bill 299. Our current bad check statute allows us to collect up to \$25 to cover "costs incurred" for collecting the bad check. The problem is that this creates an accounting burden for businesses to track and record all costs instead of assigning a fixed penalty. The proposed change in the statute would set a reasonable handling fee that is not subject to challenge. Speeding tickets have a set fine for breaking that law. Writing a bad check should have a set fine or fee as well. That's the way many other states deal with the same problem. In 2003 we lost \$5,589.89 that was not recovered from the bad checks that we had. We can not suffer these losses and have additional burdens placed upon us by having to document costs incurred to collect bad checks as well.

I strongly urge you to support SB299 to make this simple change.

Van Bakel
Jiffy Lube Alaska

Mar-02-04 02:56pm From:Independence Park Medical

+1875221342

T-763 P.002/002 F-319

INDEPENDENCE PARK MEDICAL SERVICES, INC.

8800 INDEPENDENCE DRIVE, SUITE 800, ANCHORAGE, ALASKA 99507-4600
(907) 522-1341

March 2, 2004

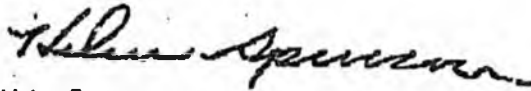
Representative Bruce Weyhrauch
Chairman House State Affairs
Fax: 907-465-2273

Re: House bill 518

Dear Representative Weyhrauch:

We support the passage of House bill 518 and Senate Bill 289. It helps clarify the current statute and relieves businesses of the burden of attempting to track all costs associated with receiving dishonored checks. Please help businesses retain the payment option of accepting checks from customers by passing this legislation.

Sincerely,



Helen Spencer,
Clinic Manager
Independence Park Medical Services Inc.



2841 DeBarr Road
Suite 50
Anchorage, Alaska
99508

Telephone
(907) 278-2811
1-888-895-2811

Fax
(907) 258-2180

GASTROENTEROLOGY

Richard F.
BUCHANAN, M.D.

William H.
MCCRAY, JR., M.D.

David E.
PEACH, M.D., FACP

Gerry
SAHAGUN, M.D.

Charles R.
SHANNON, M.D.

Eric R.
TOMPKINS, M.D.

PULMONARY

Beth A.
BAKER, M.D.
FCCP, FACP

Gregory D.
GERBOTH, M.D.
FCCP, FACP

ENDOCRINOLOGY

Jarica A.
KOVAL, M.D.

Representative Bruce Weyhraugh, Chairman House State Affairs
Re: House Bill 516

Dear Legislator:

We support the passage of House Bill 516 and Senate Bill 299. It helps clarify the current statute and relieves businesses of the burden of attempting to track all costs associated with receiving dishonored checks. Please help businesses retain the payment option of accepting checks from customers by passing this legislation.

Sincerely,

Tamara Barker
Practice Manager

FEB-27-2004 05:12P FROM:

TO:19077708150

P:3

COURTNEY'S AUTO & DIESEL REPAIR
P.O. BOX 1127
BETHEL, AK 99559

February 27, 2004

Dear Senator Lyman Hoffman

I want to go on record as a small business owner to support the passage of Senate Bill 209/JM 516. Our current statute allows us to collect up to \$25.00 to cover "costs incurred" for collecting on bad checks. The proposed change will set reasonable handling fees that is not subjected to challenge.

Sincerely,



Signature

03/02/2004 11:00 9872570185

MPFC FINANCE

PAGE 02



"Front, Through, Concerned"

Diplomates American Board of Family Practice

R. LELAND JONES, M.D.
KENNETH S. LAUFER, M.D.
R. MATSON WHITE, JR., M.D.
RICHARD R. TAYLOR JR., M.D.
CHARLES L. AARONS, M.D.

GLENN J. SCHULTES, M.D.
GARY L. CHILD, D.O.
TIMOTHY COALWELL, M.D.
MARIO A. LANZA, M.D.
DARREN B. LEWIS, M.D.
TIMOTHY NOAH LAUFER, M.D.

2211 EAST NORTHERN LIGHTS BOULEVARD, ANCHORAGE ALASKA 99508

March 2, 2004

To: Representative Bruce Weyhrauch, Chairman House State Affairs
Representative Les Gara
Senator Johnny Ellis

Re: House Bill 516 and Senate Bill 299

Dear Legislator:

I support the passage of House Bill 516 and Senate Bill 299. It helps clarify the current statute and relieves businesses of the burden of attempting to track all costs associated with receiving dishonored checks. Please help businesses retain the payment option of accepting checks from customers by passing this legislation.

Sincerely,
Medical Park Family Care, Inc.

Laurie K. Boom, CPA
Finance Director

Northern Lights Avionics

CBS #CU48115M

900 Merrill Field Drive
Anchorage, Alaska 99501
(907) 277-4811 (907) 278-6651 faxwww.NLAvionics.com

March 3, 2004

Representative Bruce Weyrauch
Chairman, House State Affairs
Re: House Bill 516
Fax: (907) 465-2273

Dear Representative Weyrauch,

I am writing on behalf of Northern Lights Avionics, Inc. to request your support for the passage of House Bill 516. The current bad check statute allows us to collect up to \$25 to cover "costs incurred" for collecting a bad check. This creates an accounting burden on businesses to track and record costs of collection, instead of assigning a fixed penalty to the person writing the bad check. The proposed change in the statute would set a reasonable handling fee that is not subject to challenge.

Please help Alaska businesses by eliminating the requirement to document the costs of collecting bad checks. Many other states have removed this administrative burden by simply assigning a fixed penalty.

On behalf of all Alaskan businesses, I strongly urge you to support HB 516 to make this simple change.

Sincerely,

Gary R. Bennett
President
Northern Lights Avionics, Inc.

sk

BROWN'S
ELECTRICAL SUPPLY CO., INC.

365 Industrial Way
Anchorage, Alaska 99501
(907) 272-2259
Fax (907) 279-7495

March 2, 2003

Dear Legislator:

I support the passage of House Bill 516 and Senate Bill 299. The changes in Section 1. AS 09.68.115(a)

from: (2) the defendant fails to tender, before the action begins, an amount equal to at least the amount of the check plus costs incurred by the plaintiff up to a maximum of \$25

to: (2) the defendant fails to tender, before the action begins, an amount equal to the amount of the check plus \$30

would help clarify the current statute. It would further relieve businesses of the work involved in tracking all costs associated with the recovery of funds from dishonored checks. This legislation would help business keep the acceptance of checks from our customers as a sound and viable choice.

Sincerely,



Leon T. Brown, Jr.
Vice President

LTB/ns

Robin Thompson

Owner,

450 Ridgecrest Drive
P.O. Box 1347 #100
Bethel, AK 99559
907.543.3719 Tel
907.543.3721 Fax



RE: House Bill 516

Dear Representative Mary Kapanen:

I am writing this letter to request your support for the passage of H.B. 516. The current bad check statute allows us to collect up to \$25 to cover "costs incurred" for collecting a bad check. This creates an accounting burden on businesses to track and record costs of collection, instead of assigning a fixed penalty to the person writing the bad check. The proposed change in the statute would set a reasonable handling fee that is not subject to challenge.

Please help Alaska businesses by eliminating the requirement to document the costs of collecting bad checks. Many other states have removed this administrative burden by simply assigning a fixed penalty.

I strongly urge to support HB 516 to make this simple change.

Sincerely,

Robin Thompson
Owner, The UPS Store



Alaska State Report

NFIB
The Voice of Small Business.

SPECIAL NFIB MEMBER-REPORT ON LEGISLATIVE ACTIONS IN YOUR STATE

BE HEARD. BE INVOLVED. BE SMARTER. BE CONNECTED.

MAY 2004

MEMBER PROFILE

Award Recognizes Outstanding Involvement

PEGGY ANN MCCONNOCHIE has been chosen as NFIB/Alaska's 2003-2004 Small-Business Champion. The award recognizes McConnochie's outstanding member involvement.



Peggy Ann
McConnochie

A COMMUNITY SERVICE LEADER: McConnochie is owner of ACH Consulting in Juneau, and serves on the NFIB/Alaska Leadership Council, which she has chaired for several years. She was chosen

because she has shown outstanding leadership in her professional career and in community service activities. In 2003, the Juneau Chamber of Commerce named her Juneau Citizen of the Year. Politically active, McConnochie has supported local, state and national candidates and ran twice for the Juneau Assembly.

PROFESSIONAL SUCCESS: McConnochie purchased Alaska Coastal Homes Inc., in 1986 and ran it as a residential, commercial and property management firm until 1996. At that time she changed the name to ACH Consulting and now operates it

as a successful consulting business. She has been active in the National Association of Realtors since 1982, as well as the Alaska Association of Realtors. She was chosen Alaska's Realtor of the Year in 1992 and the Southeast Alaska Board of Realtors' Realtor of the Year in 1984 and 1989.

Her name is now being considered for regional recognition. One Small-Business Champion Award recipient from each region will be sent to the 2004 NFIB National Small Business Summit in Washington, D.C., June 16-18.

Bounced Check Bill Clarifies Current Law

CURRENT ALASKA LAW allows a business to charge for "costs incurred" in collecting for a bounced check up to \$25 above the amount of the check. This has been interpreted to mean that a business must document the costs of collecting bad checks. The Senate Labor & Commerce Committee and the House Finance Committee have introduced Senate Bill 299 and House Bill 516 to remove the burden of keeping track of the costs. The proposed legislation simply states that the amount of the check plus \$30 can be collected for bad checks. The language referring to costs incurred has been removed.

NFIB testified in support of SB 299 before the Senate Labor & Commerce Committee. NFIB fully supports removing the requirement to keep track of the costs incurred in collecting for bounced checks. Bad checks are a real problem for many businesses, which should not be burdened with additional paperwork in order to charge a fee for these checks.

Senate Bill 299 passed the Senate and has been transmitted to the House. House Bill 516 passed the House State Affairs Committee and is now before the Judiciary Committee.



June 16 - 18, 2004
Washington, D.C.

**NFIB NATIONAL
SMALL BUSINESS
SUMMIT™**

The 2004 NFIB National Small Business Summit is fast approaching! Alaska wants to have a large presence at the Summit, and we don't want you to miss out on your chance to participate in the nation's most prestigious gathering of small-business owners. For more information or to register, go to www.NFIB.com/summit or contact State Director Thyes Shaub at (907) 463-5118.

National Federation of Independent Business • Thyes Shaub, State Director
217 Second Street, Suite 206, Juneau, AK 99801 • (907) 463-5118 • (907) 463-5128 (fax)

www.NFIB.com/AK

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SEDROR, MILLS, GIVENS & HEAPHEY**


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JON T. GIVENS
CHRIS D. GRONNING
CHRISTOPHER J. HEAPHEY
MICHAEL R. MILLS

BARBRA Z. NAULT
STEVEN T. O'HARA
JOHN M. SEDOR
BRIAN J. STIBITZ
THOMAS V. WANG, JR.

MEMORANDUM

TO: Will Fancher, Manager
Cornerstone Credit Services, LLC

FROM: Chris D. Gronning 

DATE: March 9, 2004

FILE NO: C-3570-9999

RE: Amendments to AS 09.68.115

I have reviewed Alaska's "bad check" statute, AS 09.68.115, as well as the proposed amendments to it contained in SB 299 and HB 516. Generally, AS 09.68.115 is intended to provide an efficient collection procedure for creditors holding dishonored checks, while also allowing check writers an opportunity to avoid the statutory penalties if they act promptly to make good the checks upon receiving notice from the check holder or the check holder's designee.

In most circumstances the statute works as intended. The defendant is given notice of the dishonored check and of the statutory penalties if the deficiency is not cured, and is given the opportunity to cure by paying the check and the costs, which are capped at \$25. The \$25 cap understates the costs usually incurred in handling and processing dishonored checks, and in sending out the statutorily required notice and demand for payment. However, problems arise when a defendant, after notice, fails to cure, and the plaintiff must file an action to collect the debt. Because a plaintiff is allowed to recover costs up to \$25, courts recognize that if costs are less than \$25, only the lesser amount may be recovered. Defendants may use the Alaska Civil Rules' discovery process to demand that plaintiffs show the exact costs incurred in handling their specific check. Although the

costs, without exception, exceed \$25, much of the additional litigation costs incurred in this process is unrecoverable, which defeats the efficient collection purpose of the statute. Replacing the cost language with a flat \$30 amount will eliminate these problems, and restore the efficient collection of these checks.

SB 299, which passed the Senate on a 17-0 vote on March 4, 2004, amends AS 09.68.115(a)(2) by deleting the phrase, "at least," and the phrase, "costs incurred by the plaintiff up to a maximum of \$25." It replaces the latter phrase with, "\$30." These amendments solve the problem discussed above. HB 516 as originally presented to the House State Affairs Committee, was identical to SB 299. However, the House State Affairs Committee, although accepting the changes described above, added the phrase, "but the plaintiff may waive collection of any fee" at the end of the sentence. I understand Committee members wanted to clarify that the plaintiff had the power to waive the \$30. For the reasons explained below, I believe the additional language will be problematic.

As an initial matter, the plaintiff already has, and always will have, the power to waive any cost or charge. There is a legal maxim stating: "The greater encompasses the lesser." This principle simply means that one who has the power to impose a particular penalty, fee, or charge, always has the power to impose a lesser penalty, fee, or charge, or to impose none at all, *i.e.*, to completely forego or waive any charge. This principle applies to the "bad check" statute. The current language allows a plaintiff to recover certain costs, and does not expressly state the plaintiff may waive those costs. But the plaintiff still has the power to collect less than the costs incurred, or nothing at all. I understand in your own business, you have often waived costs under the current statute. You would have this same ability under the language of SB 299. The plaintiff would always be able to ask for less than \$30, or for nothing, in the demand for payment. Inserting the phrase, "but the plaintiff may waive collection of any fee" adds no rights or powers which the plaintiff does not already have.

However, this language does raise the prospect of new problems that could undermine the efficiency goal of the statute in the same way that the current language does. A defendant or attorney will look for a way to turn the statutory language to their advantage. They may argue to the court that a plaintiff is not "being fair" in refusing to waive the fee. The defendant may invoke the litigation discovery process to inquire about a plaintiff's prior waivers; the circumstances in which waivers are made or are not made; whether plaintiff has given "appropriate" or "reasonable" consideration to making a waiver; whether plaintiff has considered any "evidence" a defendant has proffered as justifying a waiver (and will this mean a plaintiff must grant some type of hearing to a defendant to present evidence before the plaintiff can decide not to waive a fee?); whether plaintiff has adopted a written policy or developed an internal "practice" governing when waivers are or are not to be given (and perhaps failed to apply it to the defendant in "this" case); whether a plaintiff is showing inappropriate favoritism in

granting waivers to a particular group, class, or category of defendants; or whether the plaintiff is otherwise "misusing the power to grant a waiver."

None of these factors may actually exist, or even be relevant; the statute's efficiency is undermined or completely defeated where a creditor is forced to spend time and money responding to a discovery request detailing its "history of prior waivers," or its "waiver policy." A defendant may argue endlessly about why the Legislature chose to recognize, in this solitary instance, a plaintiff's power of waiver; whether this implies some Legislative intent or policy that plaintiffs "should", or "must", consider granting waivers; or must expressly state they are not waiving the fee; or must state why they are not waiving the fee.

The point is not that a defendant would ever be able to successfully force a plaintiff to waive the fee; the point is that plaintiffs could face the same, or even greater, litigation burdens under the waiver language than they currently face. This language adds nothing to the rights of a plaintiff or a defendant, but raises the potential for question, argument, and expense that would undercut the purpose of the statute. I believe the efficiency goals of the statute would be better served by omitting the proposed language regarding waiver.

REVISED

Senate Bill 299 "An Act relating to a charge for a bad check"

Background: AS 09.68.115 provides remedies to persons who receive bad checks and has been unchanged since 1984. A Superior Court decision issued in December, 2003 effectively changed the traditional interpretation of the statute. The result adds new unreasonable burdens to businesses in their attempts to collect on bad checks.

What is current law?

Prior to seeking court action for damages resulting from a bad check, the plaintiff (business or collection agency) must first make a written demand for payment at least 15 days before beginning the action and the defendant fails to pay the amount of the check plus costs incurred up to a maximum of \$25.

What has been the normal practice in attempting to collect on bad checks?

Businesses call or write to the issuers of bad checks and request payment. They have the right to ask for an additional \$25 to help to cover their costs: bank fees assessed on the business by banks when they submit the bad check (costs range from \$5 - \$25 just for this fee), personnel costs, accounting costs, etc. For good customers or persons quickly making payment, businesses often waive the fee, even though they have incurred costs. Much more often, however, businesses have to make repeated attempts to collect the funds and run up considerably higher costs in the collection effort. About 40% of the time, the businesses never collect on the check.

How does the court decision affect longstanding practice?

The court found that businesses must begin accounting for all "costs incurred" in the collection of bad checks to collect the \$25 fee. This is impractical and further adds to the costs of collecting bad checks.

How does SB 299 change the statute?

It simply deletes the existing statutory language "costs incurred by the plaintiff of to a maximum of \$25" and replaces it with a simple fee of \$30.

Can businesses still waive the fee under SB 299?

Yes. There is nothing in SB 299 that would change the current practice of businesses waiving the fee in their discretion.

What do other States' allow for bad check fees?

Most States allow fees ranging from \$20 to as much as \$100. 18 other States allow charges of \$30 or more.

Is it necessary to amend SB 299 to allow businesses to waive all or part of the \$30 bad check fee?

No. SB 299 makes no relevant change to the current statute, which has always allowed businesses to waive fees as they wish. Legal opinions make it clear that any state statute allowing for the collection of penalties and fees also allows for these fees to be waived or for a lesser amount to be collected ("the greater encompasses the lesser").

Why is it a problem to include specific language which allows waivers?

Specific waiver language in this statute (AS 09.68.115) would make it different than other similar statutes allowing for fee collections. Businesses could next be challenged for not having written policies in place describing when waivers will be permitted. While it has been argued this is not likely, please consider that SB 299 would not be necessary except for a lawsuit challenging the "costs incurred" language of the current statute. In fact, in the previously cited case, the Alaska State Legislature's specific intent has already been cited: "Although the Alaska State Legislature could have enacted bounced check legislation which, like some other states, provides for a surcharge which is not tied to expenses incurred, the Legislature did not do so..." The cost of defending such a suit would almost always exceed the amount of the bad check written to the business. Further, as explained in the previous question, it is not necessary as current law already permits waiver of fees.

Who is supporting SB 299?

The State Chamber of Commerce, the National Federation of Independent Businesses, and many individual businesses including the following:

City of Valdez
Tesoro Northstore
Spenard Builders Supply
Williams Express
McDonalds (Anchorage)
The Alaska Club
ACS
Golden Valley Electric Association (Fairbanks)
Blockbuster Video
Anchorage Fracture and Orthopedic Clinic
University of Alaska Anchorage
Central Peninsula General Hospital (Soldotna)
Red Robin
Johnson's Tire Service
New Sagaya
Alyeska Resort
Brown's Electric
GCI
Delta Western
Service Oil and Gas (MatSu Valley)
Fisher's Fuel Inc. (Big Lake/MatSu Valley)
McDonalds (Fairbanks)
Value Liquor/Raney Investments
Northern Lights Avionics
The UPS Store
Independence Park Medical Services
Medical Park Family Care
Internal Medicine Associates
Courtney's Auto & Diesel Repair (Bethel)
Durrell Law Group
Delta Veterinary Service (Delta Junction)
Tanana Valley Clinic (Fairbanks)
Girl Scouts
Jiffy Lube
Denny's Restaurant
Frontier Flying Service
Three Bears (Kenai)
Cornerstone Credit, LLC

21 other States that charge \$30 or more as "penalty" for bad checks:

Alabama \$30

Arizona \$25 plus bank fees (which would almost always be \$30 or more)

Arkansas \$25 plus bank fees (which would almost always be \$30 or more)

California \$25 for first check; \$35 for subsequent checks

Florida \$30 or more once check exceeds \$50

Georgia \$30

Iowa \$30

Kansas \$30

Louisiana \$25 or 5% of check, whichever is greater

Michigan \$25 within 7 days; \$35 after

Minnesota \$30

Mississippi \$30

Missouri \$25 plus bank fees

Montana \$30

Ohio \$30 or 10% of check, whichever is greater

South Carolina \$30

South Dakota \$30

Texas \$30

Virginia \$35

Washington \$40

Wyoming \$30

Some other States use methods which will result in fees of \$30 or greater, but are not included in this list due to complexity .

MERCHANT COSTS – DISHONORED CHECKS

1. Check is dishonored.
2. Bank Fees range from \$2.00 to \$25.00 (Average in Alaska is \$7.37 per dishonored check).
3. Re-Deposit Bank Fees range from \$2.00 to \$25.00 (If check is presented twice, which is customary).
4. Reverse dishonored check from active accounts receivable ledger.
5. Generate a "written demand" for payment of the dishonored check pursuant to A.S. 09.68.115.
6. Mail written demand "first class," or personally deliver pursuant to A.S. 09.68.115.
7. Verify funds with the bank to see if the check can be replaced with a cashiers check. If the check is collected the bank may charge for the replacement cashiers check. *Refer to step 12.*
8. Initiate telephone contact (if phone number provided on check) and make request for payment. If the merchant has a good number, it can easily take two or more contacts with the consumer to receive payment. This does not include the time spent leaving messages or finding a secondary number to telephone the maker during the daytime, or after normal business hours. *If payment is made please refer to step 12.*
9. If no active telephone number, or number is disconnected use either "411" (additional cost) or manual phone book look-up.
10. Attempt the necessary telephone contact to collect the dishonored check. **This may include numerous calls over an extended period of time.**
11. Send out a certified written demand prior to taking any further action, or refer check to a third party agency to commence further collection activity.

PAYMENT IS RECEIVED

12. Re-apply payment(s) towards active accounts receivable. (If this is a partial payment this step will be repeated for each payment).
13. Deposit payment with merchant bank.

Incidental Costs

1. Wages to perform all the above tasks.
2. Postage.
3. Long distance charges (if applicable).
4. Supplies.
5. Bank fees above the dishonored check charges (e.g. deposit item fees, deposit cash fees, etc).
6. Merchant collateral costs attributed to issuing checks against the dishonored check.

Summary

Bank fees, on average, frequently account for approximately \$15.00 per dishonored check prior to accounting for the greater expense of recovery. Significant additional expenses include labor, postage, long distance charges, supplies, bank reconciliation, and incidental bank fees.

HOUSE AMENDMENT # 1

TO: HCS
SB 299 (JUD)

BY: Cissna

Page 1 . Line 11

AFTER: "the amount of the check, plus"

Delete: "2"

\$

ADD: " up to a maximum "

adopted 26-14

Submit original amendment to the Chief Clerk.
It will then be numbered and duplicated.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 299 23-LS 1603A
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Several, see below
 Title An Act relating to a charge for a bad RDU Various
check Component Various
 Sponsor Senate Labor and Commerce Commit
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation allows holders of NSF checks to assess an additional \$5 (from \$25 to \$30) for handling fees allowable under AS 09.68.115(a). A quick survey of some state agencies accepting over the counter receipts produced the following:

>DMV - collect about 550 per year; \$5 increase would yield \$2,750; cost to modify system \$5,000

>Occupational Licensing - collect about 150 per year; could yield \$750

>Environmental Conservation - about 20 NSFs per year; not charging fees

>DOTPF - collected 72 in 2003; \$5 increase would yield \$360

Based on this information, the financial impact on state agencies is estimated as an immaterial wash, as shown by zero amounts in the tables above.

Prepared by: Kim Garner, Director Phone 465-3435
 Division Division of Finance Date/Time 2/17/04 7:39 AM
 Approved by: Mike Miller, Commissioner Date 2/17/2004
 Agency Department of Administration

Support



February 12, 2004

Senator Con Bunde
Alaska State Capitol, Room 506
Juneau, AK 99801
Re: Senate Bill 299

Dear Senator Bundy,

We would like to go on record supporting the passage of Senate Bill 299.

The current bad check statute allows us to collect up to \$25 to cover "costs incurred" for collecting a bad check. The problem is that this creates an accounting burden for businesses to track and record all costs instead of assigning a fixed penalty. The proposed change in the statute would set a reasonable handling fee that is not subject to challenge. This is the same way that many other states deal with this problem.

Alaska's businesses should not have additional burdens placed upon them by having to document costs incurred to collect their bad checks.

We strongly urge you to support SB 299 to make this simple change.

Sincerely,

A handwritten signature in cursive script that reads "Ted M. Wells".

Ted M. Wells, Controller
Sagaya Corporation



GOLDEN VALLEY ELECTRIC ASSOCIATION INC. PO Box 71249 • Fairbanks, Alaska 99707-1249 • 907-452-1151 • www.gvea.com

February 12, 2004

Senator Con Bunde
Alaska State Capitol, Rm. 506
Juneau, AK 99801
Fax: 907-465-3871

Re: Senate Bill 299

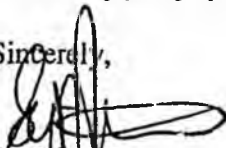
Dear Senator Bunde:

I want to go on record supporting the passage of Senate Bill 299. Our current bad check statute allows us to collect up to \$25 to cover "costs incurred" for collecting the bad check. The problem is that this creates an accounting burden for businesses to track and record all costs instead of assigning a fixed penalty. The proposed change in the statute would set a reasonable handling fee that is not subject to challenge. That's the way many other states deal with the same problem.

Golden Valley Electric Association has been in business in Alaska since 1947 and we don't feel the vast majority of our member's should have to shoulder the burden of costs incurred to collect on bad checks written by the very few.

We strongly urge you to support SB 299 to make the simple change.

Sincerely,



Scott Peters

Consumer Accounting Manager
Golden Valley Electric Association



**Anchorage
Fracture &
Orthopedic
Clinic**

3260 PROVIDENCE DR., SUITE 200
ANCHORAGE, ALASKA 99508
(907) 563-3145 • FAX 561-3967

- DECLAN R. NOLAN, M.D.
- RICHARD W. GARNER, M.D.
- THOMAS P. VASILEFF, M.D.
- RICHARD D. MCEVOY, M.D.
- ADRIAN B. RYAN, M.D.
- DAVIS C. PETERSON, M.D.
- STEPHEN S. TOWER, M.D.
- LESLIE P. DEAN, M.D.
- GEORGE D. RHYNEER, M.D.
- UPSHUR M. SPENCER, M.D.

- Diplomates American Board of Orthopaedic Surgery
- Fellows American Academy of Orthopaedic Surgeons

February 12, 2004

Senator Con Bunde
Alaska State Capitol, Rm 506
Juneau, AK 99801

FAXED 907-465-3871

RE: Senate Bill 299

Dear Senator Bunde:

Our clinic would like to go on record in support of Senate Bill 299. Alaska's current bad check statute allows us to collect up to \$25 to cover "costs incurred" for collecting the bad check. The problem is that this creates an accounting burden for businesses to track and record all costs instead of assigning a fixed penalty. The proposed change in the statute would set a reasonable handling fee that is not subject to challenge. That is the way many other states deal with the same problem.

Due to regulatory and compliance issues medical offices have dramatically increasing costs that are combined with steadily diminishing reimbursements. It is growing more and more difficult to collect payment for our services, and we feel that we, as well as other Alaska businesses, should not have additional burdens placed upon us by having to document costs incurred to collect bad checks.

We strongly urge you to support SB 299 to make this simple change.

Sincerely,

Beth A. Balen, FACMPE
Administrator
907-261-7135



WILLIAMS EXPRESS INC.

February 12, 2004

Senator Con Bunde
Alaska State Capitol, Rm 506
Juneau, Ak 99801

Re: Senate Bill 299

Dear Senator Bunde,

It is time for us to make a change in the way our statutes address handling fees for bad checks. Alaska statute allows businesses to charge up to \$25.00 to cover "costs incurred" vs. other states assigning a reasonable handling fee that is not up to challenge. Our system creates the unnecessary accounting burden of tracking, recording and documenting costs incurred in order to collect on bad checks.

I want to go on record supporting the passage of Senate Bill 299 and I strongly urge you to support this change.

Respectfully

A handwritten signature in black ink, appearing to read "Ernest B. Madsen".

Ernest B. Madsen
Director - Williams Express - Alaska
3201 C. Street, #700
Anchorage, Alaska 99503
(907) 273-3300



February 13, 2004

Senator Con Bunde
Alaska State Capitol, Room 506
Juneau, AK 99801
VIA Fax: 907-465-3871

RE: Senate Bill 299: Relating to a charge for a bad check

Senator Bunde:

As Finance Director of the City of Valdez, I support the passage of Senate Bill 299. The current bad check statute requires that to collect up to \$25 to cover "costs incurred" for collecting bad checks, we must account for our time and expenses for every bad check. There is a considerable burden and expense just in the accounting for the costs of a bad check collection, much less the indirect costs of lost cash flow. For a municipality which is undergoing fiscal stress, this is a waste of taxpayers resources.

The proposed change in the statute would set a reasonable handling fee that is fixed, and requires a much simpler approach to the problem.

I urge you to support SB 299 to make this change.

A handwritten signature in cursive script that reads "Christine A. Sasse".

Christine A. Sasse
Finance Director

cc: Dave Dengel, City Manager

Bill Backup

Service Fees for Returned Checks

Revised for November 2003

INTERNET & CHECK SERVICES PROGRAM

ACA International

Alabama.....\$30 <i>Ala. Code § 8-8-15 (2002).</i>	Idaho.....\$20 or the face amount of the check, whichever is the lesser, plus 12% interest per annum from the date of dishonor <i>Idaho Code § 28-22-105 (2002).</i>
Alaska.....\$25 <i>Alaska Stat. § 09.68.115 (2002).</i>	Illinois.....\$25 or all costs and expenses including reasonable attorney's fees incurred in collection of check, whichever is greater <i>810 Ill. Comp. Stat. 5/3-806 (2002).</i>
Arizona.....\$25, plus any actual charges assessed by the financial institution of the holder, payee or assignee of the holder or payee as a result of the dishonored instrument <i>Ariz. Rev. Stat. § 44-6852 (2003).</i>	Indiana.....An amount not to exceed \$20, plus an amount equal to the actual charge by the depository institution for each returned or dishonored instrument. <i>Ind. Code § 26-1-3.1-502.5 (2002).</i>
Arkansas.....\$25, plus the amount of any fees charged to the holder of the check by any financial institution as a result of the check not being honored <i>Ark. Code Ann. § 4-60-103 (2002).</i>	Iowa.....\$30 <i>Iowa Code § 554.3512 (2003).</i>
California.....\$25 for the first check and a service fee of up to \$35 for each subsequent check to that same payee <i>Cal. Civ. Code § 1719 (2003).</i>	Kansas..... Not to exceed \$30 <i>Kan. Civ. Proc. Code Ann. § 60-2610 (2002).</i>
Colorado.....\$20 posted at point-of-sale and, if the NSF check has been assigned to a licensed collection agency for collection, 20% of the face amount of the check, but not less than \$20 <i>Colo. Rev. Stat. § 13-21-109 (2002).</i>	Kentucky.....\$25 posted at point-of-sale <i>Ky. Rev. Stat. Ann. § 514.040 (2002).</i>
Connecticut.....\$20 <i>Conn. Gen. Stat. § 52-565a (2003).</i>	Louisiana.....\$25 or 5% of face amount, whichever is greater, posted at the point-of-sale <i>La. Rev. Stat. Ann. § 9:2782 (2002).</i>
Delaware.....Undetermined *	Maine.....Undetermined *
District of Columbia...\$15 or fee prescribed by Mayor, but only for dishonored checks in payment of any tax assessment or fees due to the government of the District of Columbia <i>D.C. Code Ann. § 1-333.11 (2002).</i>	Maryland..... Up to \$35. <i>Md. Code Ann., Com. Law § 15-802 (2002).</i>
Florida.....\$25, if the face value does not exceed \$50, \$30, if the face value exceeds \$50 but does not exceed \$300, \$40, if the face value exceeds \$300, or 5% of the face amount of the check, whichever is greater <i>Fla. Stat. ch. 68.065 (2002).</i>	Massachusetts.....Undetermined *
Georgia..... \$30 or 5 percent of the instrument, plus the amount of any fees charged to the holder of the instrument by a bank or financial institution as a result of the instrument not being honored. <i>Ga. Code Ann. § 13-6-15 (2002).</i>	Michigan.....\$25 to be paid within 7 days, excluding weekends & holidays, after notice was mailed. If not paid as requested above, but within 30 days after notice was mailed, the service fee is \$35. <i>Mich. Comp. Laws § 600.2952 (2002).</i>
Hawaii.....\$20. <i>Haw. Rev. Stat. § 490:3-506.5 (2002).</i>	Minnesota.....Not to exceed \$30; posted conspicuously at point-of-sale <i>Minn. Stat. § 604.113 (2002). Renumbered from the former 332.50.</i>
	Mississippi.....\$30 <i>Miss. Code Ann. § 97-19-57 (2002).</i>

THIS INFORMATION IS NOT INTENDED AS LEGAL ADVICE AND MAY NOT BE USED AS LEGAL ADVICE. ANY INFORMATION CONTAINED IN THIS MATERIAL IS SUBJECT TO CHANGE AND INTERPRETATIONS OF THE STATUTES MAY VARY. THIS INFORMATION SHOULD NOT BE USED TO REPLACE THE ADVICE OF YOUR OWN LEGAL COUNSEL. THE ABOVE INFORMATION IS A SUMMARY OF THE APPLICABLE STATUTES. THE STATUTES SHOULD BE REVIEWED IN THEIR ENTIRETY FOR A COMPLETE UNDERSTANDING OF THE LAW REGARDING SERVICE FEES.

Missouri.....	A reasonable service charge, not to exceed \$25, plus an amount equal to the actual charge by the depository institution for the return of each unpaid or dishonored instrument. <i>Mo. Rev. Stat. § 570.120 (2003).</i>	South Carolina.....	\$30 <i>S. C. Code Ann. § 34-11-70 (2002).</i>
Montana.....	Up to \$30 <i>Mont. Code Ann. § 27-1-717 (2002).</i>	South Dakota.....	\$30 plus any applicable sales tax, posted conspicuously at point-of-sale <i>S.D. Codified Laws § 57A-3-421 (2001).</i>
Nebraska.....	Undetermined *, but for NSF checks written for the purchase of goods, Neb. Rev. Stat. § 2-10 (2002) provides a seller or a person in the position of the seller, one who has become responsible for the price of the goods on behalf of his principal, may assess a buyer for incidental damages incurred as a result of the buyer's breach. Such incidental damages may include any commercially reasonable charges. <i>See Freymuth v. Credit Bureau Services, Inc., 248 F.3d 767 (8th Cir. 2001).</i>	Tennessee.....	An amount not to exceed \$20 <i>Tenn. Code Ann. § 47-29-102 (2002).</i>
Nevada.....	Up to \$25 <i>Nev. Rev. Stat. § 597.960 (2002).</i>	Texas.....	\$30 <i>Tex. Bus. & Com. Code Ann. § 3.506 (2001).</i>
New Hampshire.....	Not more than \$25 unless otherwise expressly authorized by written agreement with the consumer <i>N.H. Rev. Stat. Ann. § 358-C:5 (2002).</i>	Utah.....	\$20 <i>Utah Code Ann. § 7-15-1 (2002).</i>
New Jersey.....	Undetermined *	Vermont.....	Undetermined *
New Mexico.....	Undetermined *	Virginia.....	\$35, plus legal interest from the date of the check and the bad check return fee charged to the holder by his bank <i>Va. Code Ann. § 8.01-27.1 (2003).</i>
New York.....	The lesser of the amount agreed upon, if contracted for, or \$20 <i>N.Y. Gen. Oblig. Law § 5-328 (2003).</i>	Washington.....	Reasonable handling fee; when not paid within 15 days, a collection cost not to exceed \$40 or face amount of check, whichever is less and interest at 12% per year from date of dishonor <i>Wash. Rev. Code § 62A.3-515 (2003).</i>
North Carolina.....	\$25 <i>N.C. Gen. Stat. § 25-3-506 (2003).</i>	West Virginia.....	\$25 <i>W. Va. Code § 61-3-39e (2003).</i>
North Dakota.....	\$25 <i>N.D. Cent. Code § 6-08-16.2 (2001).</i>	Wisconsin.....	All reasonable costs and expenses in connection with the collection of the amount for which the check or draft was written <i>Wis. Stat. § 403.414 (2003).</i>
Ohio.....	\$30 or 10% of the face amount of the instrument, whichever is greater, plus the amount of any fees charged to the holder of the check by any financial institution as a result of the check not being honored <i>Ohio Rev. Code Ann. § 1319.16 (2003).</i>	Wyoming.....	\$30 <i>Wyo. Stat. Ann. § 1-1-115 (2002).</i>
Oklahoma.....	Undetermined *	*Undetermined means that a specific service charge has not been set by state statute. See the full state's statutes for remedies by civil action or criminal penalties which may allow a civil penalty assessment.	
Oregon.....	\$25 <i>Or. Rev. Stat. § 30.701 (2001).</i>	It is suggested that service fees be posted at the point-of-sale in all states. ACA cannot be responsible for recent changes in the law regarding service charges and civil penalties. Remember to check with your attorney before establishing any procedures based upon this information.	
Pennsylvania.....	Undetermined *	© 2003 ACA International. All rights reserved. No reprinting.	
Rhode Island.....	\$25 <i>R.I. Gen. Laws § 6-42-3 (2002).</i>	For more information on each state's check laws, including criminal penalties, contact ACA Member Services for purchase and update information on the <i>ICSP Statutory Penalties Guide</i> .	

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Fastfax

From ACA's Fax on Demand Service
Last Updated on December 1, 2003

Page 1 of 33
Document



STATE SERVICE FEE STATUTES

The following is a compendium of all of the states' service fee statutes in their entirety. These statutes will contain information on the amount of service fee allowable by state, what transactions allow for a service fee, and whether or not the state requires a notice of the service fee to be posted at the point of sale.

ALABAMA

§ 8-8-15. Bad check charge; deemed not finance charge.

(a) Any lender of money, extender of other credit, or merchant making a sale of merchandise, goods, or services, or the assignee of the lender, extender of credit, or merchant who receives a check, draft, negotiable order of withdrawal, or like instrument drawn on a bank or other depository institution given by any person in full or partial repayment of a loan, other extension of credit, or a sale of merchandise, goods, or services may, if the instrument is not paid or is dishonored by the institution, charge and collect, through regular billing procedure or otherwise, from the borrower, person to whom the credit was extended, or from whom the instrument was received, a bad check charge of not more than the greater of either twenty-five dollars (\$25) or an amount equal to the actual charge by the depository institution for the return of unpaid or dishonored instruments.

(b) Commencing January 1, 1999, the bad check charge in subsection (a) shall increase by one dollar (\$1) per year through January 1, 2003, at which time the maximum bad check charge shall be thirty dollars (\$30).

Charges imposed in connection with the dishonor of a negotiable instrument shall not be deemed interest finance or other charge made as an incident to or as a condition to the grant of the loan or other extension of credit and shall not be included in determining the limit on charges which may be made in connection with the loan or extension of credit as provided in this section or in any other law of this state.

ALASKA

§ 09.68.115 Bad check civil penalties.

(a) In an action against a person who issues a check that is dishonored, the plaintiff may recover damages in an amount equal to \$100 or triple the amount of the check, whichever is greater, except that damages recovered under this section may not exceed the amount of the check by more than \$1,000 and may be awarded only if

- (1) the plaintiff makes a written demand for payment of the check at least 15 days before beginning the action; and
- (2) the defendant fails to tender, before the action begins, an amount equal to at least the amount of the check plus costs incurred by the plaintiff up to a maximum of \$25.

(b) An action under this section may be brought as a small claims action if the amount claimed does not exceed the jurisdictional limits for small claims actions, or may be brought in any other court that has jurisdiction.

(c) After the beginning of an action under this section but before the case is tried, the defendant may satisfy the claim by tendering an amount of money equal to the amount of the check plus court, legal, and service costs incurred by the plaintiff up to a maximum of \$150.

(d) In this section

- (1) "check" has the meaning given in AS 11.46.280;

(2) "dishonored" means the nonpayment of a check because of

(A) lack of funds;

(B) closure or nonexistence of an account; or

(C) a stop payment order issued without cause;

(3) "written demand" means a written notice to the issuer of a check personally delivered or sent by first class mail to the address shown on the dishonored check, advising the issuer that the check has been dishonored and explaining the civil penalties set out in this section.

ARIZONA

§ 44-6852. Dishonored checks; service fee

Notwithstanding any other law, the holder, payee or assignee of the holder or payee of a dishonored check, draft, order or note may charge and collect from the maker or drawer a service fee of not more than twenty-five dollars plus any actual charges assessed by the financial institution of the holder, payee or assignee of the holder or payee as a result of the dishonored instrument.

ARKANSAS

4-60-103 Liability for restitution.

(a) Any person who issues a check which is not paid because the check was written on an account with insufficient funds has fifteen (15) days following the date of a written demand mailed or delivered to the drawer of the check at the address shown on the check or his or her last known address to pay to the holder of the check or his or her agent the amount of the check and a collection fee not to exceed twenty-five dollars (\$25.00), plus the amount of any fees charged to the holder of the check by any financial institution as a result of the check's not being honored.

(b)(1) Any person who fails to make restitution as set forth in subsection (a) of this section and who fails to pay the amount of the check and a collection fee not to exceed twenty-five dollars (\$25.00), plus the amount of any fees charged to the holder of the check by any financial institution as a result of the check's not being honored, within thirty (30) days following the date of a written demand mailed to the drawer by certified mail, return receipt requested, to the address shown on the check or his or her last known address is liable to the holder of the check or his or her agent for:

(A) Twice the amount of the check, but in no case less than fifty dollars (\$50.00);

(B) A collection fee not to exceed twenty-five dollars (\$25.00), plus the amount of any fees charged to the holder of the check by any financial institution as a result of the check's not being honored; and

(C) Any taxes which may be due pursuant to § 26-52-301(3)(E).

(2) The prevailing party may recover court costs and reasonable attorney's fees after suit has been filed.

(c)(1) Nothing in this section shall prevent the criminal prosecution of the person who issues the check.

(2) However, any payment made by the defendant to a victim pursuant to an order for restitution entered in a criminal prosecution shall be set off against any judgment in favor of the victim in a civil action brought under this section arising out of the same facts or event.

CALIFORNIA

⇒§ 1719. Dishonored checks; liability; demands for payment; stop payments; notice; penalties, damages and service charges; assignees

(a)(1) Notwithstanding any penal sanctions that may apply, any person who passes a check on insufficient funds shall be liable to the payee for the amount of the check and a service charge payable to the payee for an amount not to exceed twenty-five dollars (\$25) for the first check passed on insufficient funds and an amount not to exceed thirty-five dollars (\$35) for each subsequent check to that payee passed on insufficient funds.

(2) Notwithstanding any penal sanctions that may apply, any person who passes a check on insufficient funds shall be liable to the payee for damages equal to treble the amount of the check if a written demand for payment is mailed by certified mail to the person who had passed a check on insufficient funds and the written demand informs this person of (A) the provisions of this section, (B) the amount of the check, and (C) the amount of the service charge payable to the payee. The person who had passed a check on insufficient funds shall have 30 days from the date the written demand was mailed to pay the amount of the check, the amount of the service charge payable to the payee, and the costs to mail the written demand for payment. If this person fails to pay in full the amount of the check, the service charge payable to the payee, and the costs to mail the written demand within this period, this person shall then be liable instead for the amount of the check, minus any partial payments made toward the amount of the check or the service charge within 30 days of the written demand, and damages equal to treble that amount, which shall not be less than one hundred dollars (\$100) nor more than one thousand five hundred dollars (\$1,500). When a person becomes liable for treble damages for a check that is the subject of a written demand, that person shall no longer be liable for any service charge for that check and any costs to mail the written demand.

(3) Notwithstanding paragraphs (1) and (2), a person shall not be liable for the service charge, costs to mail the written demand, or treble damages if he or she stops payment in order to resolve a good faith dispute with the payee. The payee is entitled to the service charge, costs to mail the written demand, or treble damages only upon proving by clear and convincing evidence that there was no good faith dispute, as defined in subdivision (b).

(4) Notwithstanding paragraph (1), a person shall not be liable under that paragraph for the service charge if, at any time, he or she presents the payee with written confirmation by his or her financial institution that the check was returned to the payee by the financial institution due to an error on the part of the financial institution.

(5) Notwithstanding paragraph (1), a person shall not be liable under that paragraph for the service charge if the person presents the payee with written confirmation that his or her account had insufficient funds as a result of a delay in the regularly scheduled transfer of, or the posting of, a direct deposit of a social security or government benefit assistance payment.

(6) As used in this subdivision, to "pass a check on insufficient funds" means to make, utter, draw, or deliver any check, draft, or order for the payment of money upon any bank, depository, person, firm, or corporation that refuses to honor the check, draft, or order for any of the following reasons:

(A) Lack of funds or credit in the account to pay the check.

(B) The person who wrote the check does not have an account with the drawee.

(C) The person who wrote the check instructed the drawee to stop payment on the check.

(b) For purposes of this section, in the case of a stop payment, the existence of a "good faith dispute" shall be determined by the trier of fact. A "good faith dispute" is one in which the court finds that the drawer had a reasonable belief of his or her legal entitlement to withhold payment. Grounds for the entitlement include, but are not limited to, the following: services were not rendered, goods were not delivered, goods or services purchased are faulty, not as promised, or otherwise unsatisfactory, or there was an overcharge.

(c) In the case of a stop payment, the notice to the drawer required by this section shall be in substantially the following form:

NOTICE

To: _____
(name of drawer)

_____ is the payee of a check you wrote
(name of payee)

for \$ _____. The check was not paid because you
(amount)

stopped payment, and the payee demands payment. You may have a good faith dispute as to whether you owe the full amount. If you do not have a good faith dispute with the payee and fail to pay the payee the full amount of the

check in cash, a service charge of an amount not to exceed twenty-five dollars (\$25) for the first check passed on insufficient funds and an amount not to exceed thirty-five dollars (\$35) for each subsequent check passed on insufficient funds, and the costs to mail this notice within 30 days after this notice was mailed, you could be sued and held responsible to pay at least both of the following:

(1) The amount of the check.

(2) Damages of at least one hundred dollars (\$100) or, if higher, three times the amount of the check up to one thousand five hundred dollars (\$1,500).

If the court determines that you do have a good faith dispute with the payee, you will not have to pay the service charge, treble damages, or mailing cost. If you stopped payment because you have a good faith dispute with the payee, you should try to work out your dispute with the payee. You can contact the payee at:

(name of payee)

(street address)

(telephone number)

You may wish to contact a lawyer to discuss your legal rights and responsibilities.

(name of sender of notice)

(d) In the case of a stop payment, a court may not award damages or costs under this section unless the court receives into evidence a copy of the written demand that, in that case, shall have been sent to the drawer and a signed certified mail receipt showing delivery, or attempted delivery if refused, of the written demand to the drawer's last known address.

(e) A cause of action under this section may be brought in small claims court by the original payee, if it does not exceed the jurisdiction of that court, or in any other appropriate court. The payee shall, in order to recover damages because the drawer instructed the drawee to stop payment, show to the satisfaction of the trier of fact that there was a reasonable effort on the part of the payee to reconcile and resolve the dispute prior to pursuing the dispute through the courts.

(f) A cause of action under this section may be brought by a holder of the check or an assignee of the payee. A proceeding under this section is a limited civil case. However, if the assignee is acting on behalf of the payee, for a flat fee or a percentage fee, the assignee may not charge the payee a greater flat fee or percentage fee for that portion of the amount collected that represents treble damages than is charged the payee for collecting the face amount of the check, draft, or order. This subdivision shall not apply to an action brought in small claims court.

(g) Notwithstanding subdivision (a), if the payee is the court, the written demand for payment described in subdivision (a) may be mailed to the drawer by the court clerk. Notwithstanding subdivision (d), in the case of a stop payment where the demand is mailed by the court clerk, a court may not award damages or costs pursuant to subdivision (d), unless the court receives into evidence a copy of the written demand, and a certificate of mailing by the court clerk in the form provided for in subdivision (4) of Section 1013a of the Code of Civil Procedure for service in civil actions. For purposes of this subdivision, in courts where a single court clerk serves more than one court, the clerk shall be deemed the court clerk of each court.

(h) The requirements of this section in regard to remedies are mandatory upon a court.

(i) The assignee of the payee or a holder of the check may demand, recover, or enforce the service charge, damages, and costs specified in this section to the same extent as the original payee.

(j)(1) A drawer is liable for damages and costs only if all of the requirements of this section have been satisfied.

(2) The drawer shall in no event be liable more than once under this section on each check for a service charge, damages, or costs.

(k) Nothing in this section is intended to condition, curtail, or otherwise prejudice the rights, claims, remedies, and defenses under Division 3 (commencing with Section 3101) of the Commercial Code of a drawer, payee, assignee,

or holder, including a holder in due course as defined in Section 3302 of the Commercial Code, in connection with the enforcement of this section.

COLORADO

§ 13-21-109. Recovery of damages for checks, drafts, or orders not paid upon presentment

(1) Any person who obtains money, merchandise, property, or other thing of value, or who makes any payment of any obligation other than an obligation on a consumer credit transaction as defined in section 5-1-301, C.R.S., by means of making any check, draft, or order for the payment of money upon any bank, depository, person, firm, or corporation which is not paid upon its presentment is liable to the holder of such check, draft, or order or any assignee for collection for one of the following amounts, at the option of the holder or such assignee:

(a) The face amount of the check, draft, or order plus actual damages determined in accordance with the provisions of the "Uniform Commercial Code", title 4, C.R.S.; or

(b) An amount equal to the face amount of the check, draft, or order and:

(I) The amount of any reasonable posted or contractual charge not exceeding twenty dollars; and

(II) If the check, draft, or order has been assigned for collection to a person licensed as a collection agency pursuant to article 14 of title 12, C.R.S., as costs of collection, twenty percent of the face amount of the check, draft, or order but not less than twenty dollars; or

(c) An amount as provided in subsection (2) of this section.

(2)(a) If notice of nonpayment on presentment of the check, draft, or order has been given in accordance with the provisions of subsections (3) and (4) of this section and the total amount due as set forth in the notice has not been paid within fifteen days after such notice is given, instead of the amounts set forth in paragraph (a) or (b) of subsection (1) of this section, the person shall be liable to the holder or any assignee for collection for three times the face amount of the check but not less than one hundred dollars.

(b) The person, also referred to in this section as the "maker", shall not be liable in accordance with the provisions of paragraph (a) of this subsection (2) if he establishes any one of the following:

(I) That the account contained sufficient funds or credit to cover the check, draft, or order at the time the check, draft, or order was made, plus all other checks, drafts, and orders on the account then outstanding and unpaid;

(II) That the check, draft, or order was not paid because a paycheck, deposited in the account in an amount sufficient to cover the check, draft, or order, was not paid upon presentment;

(III) That funds sufficient to cover the check, draft, or order were garnished, attached, or set off and the maker had no notice of such garnishment, attachment, or setoff at the time the check, draft, or order was made;

(IV) That the maker of the check, draft, or order was not competent or of full age to enter into a legal contractual obligation at the time the check, draft, or order was made;

(V) That the making of the check, draft, or order was induced by fraud or duress;

(VI) That the transaction which gave rise to the obligation for which the check, draft, or order was given lacked consideration or was illegal.

(3) Notice that a check, draft, or order has not been paid upon presentment shall be in writing and given in person and receipted for, or by personal service, or by depositing the notice by certified mail, return receipt requested and postage prepaid, or by regular mail supported by an affidavit of mailing sworn and retained by the sender, in the United States mail and addressed to the recipient's most recent address known to the sender. If the notice is mailed and not returned as undeliverable by the United States postal service, notice shall be conclusively presumed to have been given on the date of mailing. For the purpose of this subsection (3), "undeliverable" does not include unclaimed or refused.

(4) The notice given pursuant to subsection (3) of this section shall include the following information regarding the unpaid check, draft, or order:

(a) The date the check, draft, or order was issued;

(b) The name of the bank, depository, person, firm, or corporation on which it was drawn;

(c) The name of the payee;

(d) The face amount;

(e) A statement of the total amount due, which shall be itemized and shall not exceed the amount permitted under paragraph (a) or (b) of subsection (1) of this section;

(f) A statement that the maker has fifteen days from the date notice was given to make payment in full of the total amount due; and

(g) A statement that, if the total amount due is not paid within fifteen days after the date notice was given, the maker may be liable in a civil action for three times the face amount of the check but not less than one hundred dollars and that, in such civil action, the court may award court costs and reasonable attorney fees to the prevailing party.

(5) No holder or assignee for collection shall assert that any maker has liability for any amount set forth under subsection (2) of this section unless such liability has been determined by entry of a final judgment by a court of competent jurisdiction.

(6) In any civil action brought under this section, the prevailing party may recover court costs and reasonable attorney fees. In addition, in an action brought under paragraph (b) of subsection (1) of this section, if the holder or assignee for collection prevails, actual costs of collection may be recovered by the holder or assignee for collection if such actual costs of collection are greater than the costs of collection provided under such paragraph (b).

(7) Nothing in this section shall be deemed to apply to any check, draft, or order on which payment has been stopped by the maker by reason of a dispute relating to the money, merchandise, property, or other thing of value obtained by the maker.

(8) Nothing in this section applies to any criminal case or affects eligibility or terms of probation.

(9) Any limitation on a cause of action under this section, except a cause of action under subsection (2) of this section, shall be governed by the provisions of section 13-80-103.5. Any limitation on a cause of action under subsection (2) of this section shall be governed by the provisions of section 13-80-102.

CONNECTICUT

§ 52-565a. Liability of drawer for dishonored check. Service charge on drawer for dishonored check

(a) A drawer negotiating a check who knows or should know that payment of such check will be refused by the drawee bank either because the drawer has no account with such bank or because the drawer has insufficient funds on deposit with such bank shall be liable to the payee for damages, in addition to the face amount of the check, provided the payee has presented such check for payment, the check is dishonored and the drawer fails to pay the face amount of such check within thirty days following the date of mailing by the payee of the written demand for payment as provided in subsection (f) of this section.

(b) In the case of a drawer negotiating a check who knows or should know that payment of such check will be refused by the drawee bank because the drawer has no account with such bank, such damages shall be in an amount to be determined by the court in light of the circumstances, but in no event shall such amount be greater than the face amount of the check or seven hundred fifty dollars, whichever is less.

(c) In the case of a drawer negotiating a check who knows or should know that payment of such check will be refused by the drawee bank because the drawer has insufficient funds on deposit with such bank, such damages

delivered; and (7) an explanation of the damages which may be imposed pursuant to this section in the event the drawer fails to pay the face amount of the dishonored check.

(h) The penalties provided for in this section shall not apply to any check for which payment has been stopped by the drawer or to any check where the drawer has raised a reasonable defense with respect to the validity of the underlying debt.

(i) Notwithstanding the provisions of this section, in the case of a drawer who negotiates a check which is dishonored, the payee or its assignee may impose on the drawer a service charge of up to twenty dollars, provided, no such service charge may be imposed if (1) the drawer has stopped payment on the check, (2) the check was stolen, or (3) the drawer has raised a reasonable defense with respect to the validity of the underlying debt. The drawer shall not be liable under this subsection for more than one such service charge for each dishonored check.

DELAWARE
Undetermined.

DISTRICT OF COLUMBIA

§ 1-333.11. Imposition of fee for delivery of bad check in payment of obligation due District of Columbia; amount of fee; manner of collection; exception.

(a) The Mayor of the District of Columbia shall prescribe and impose, in addition to any other penalties provided by law, a fee to be paid by each person who gives or causes to be given, in payment of any tax, assessment, fee, charge, or other obligation due the government of the District of Columbia, a check which is subsequently dishonored or not duly paid. The amount of the fee shall be prescribed from time to time by the Mayor and shall be based on the approximate cost to the District of Columbia of handling dishonored or unpaid checks and collecting the amounts they represent. The fee shall be collected in the same manner as the original obligation. Any receipt previously given in reliance upon such check shall be void, and no other receipt shall be given for the payment of the original amount due until the fee has also been paid. This section shall not apply to a check which is not paid because of the death of its drawer. The Mayor may issue rules and regulations necessary to carry out this section.

(b) Until such fee is prescribed by the Mayor pursuant to subsection (a) of this section, a fee in the amount of \$15 shall be imposed by the Mayor upon each person who gives or causes to be given, in payment of any tax, assessment, fee, charge, or other obligation due the government of the District of Columbia, a check which is subsequently dishonored or not duly paid.

(c) In addition to any other penalties prescribed by law, the Mayor may contract for the collection of the amount represented by any dishonored or unpaid check that is given, or caused to be given, to the Mayor in payment of any liability or obligation owed to the District of Columbia government.

(d) In addition to the dishonored check fee provided for in subsection (b) of this section when collection of a dishonored or unpaid check is made pursuant to a contract authorized by subsection (c) of this section, the Mayor shall collect any costs or expenses incurred to recover and collect the amount represented by a dishonored or unpaid check from any such person who gives, or causes to be given, in payment of any obligation or liability due the District of Columbia government a check which is subsequently dishonored or not duly paid. In cases where collection is made by action at law or suit in equity, such costs and expenses shall include litigation expenses and attorneys fees.

(e) The Corporation Counsel is authorized to institute actions at law or in equity for the recovery of all amounts owed to the District as set forth in subsection (d) of this section, including the Corporation Counsel's own litigation expenses and attorneys fees. In the event the Corporation Counsel elects not to exercise his or her authority under this subsection, any person who, or entity that, renders the collection services provided for in subsection (c) of this section shall have the authority to institute actions at law or suits in equity for the recovery of the amounts represented by any dishonored or unpaid check, in addition to any amounts charged by the collector for collecting a dishonored or unpaid check and any litigation expenses and attorneys fees incurred by the collector for such collection.

(f) Notwithstanding the Mayor entering into a collection contract pursuant to subsection (c) of this section, the Mayor retains exclusive authority with respect to all District obligations and liabilities, including, but not limited

to, the authority to resolve a dispute, comprise a claim, end collection activity, or establish a schedule of fees and expenses.

FLORIDA

68.065. Actions to collect worthless checks, drafts, or orders of payment; attorney's fees and collection costs

(1) In any civil action brought for the purpose of collecting a check, draft, or order of payment, the payment of which was refused by the drawee because of the lack of funds, credit, or an account, or where the maker or drawer stops payment on the check, draft, or order of payment with intent to defraud, and where the maker or drawer fails to pay the amount owing, in cash, to the payee within 30 days following a written demand therefor, as provided in subsection (3), the maker or drawer shall be liable to the payee, in addition to the amount owing upon such check, draft, or order, for damages of triple the amount so owing. However, in no case shall the liability for damages be less than \$50. The maker or drawer shall also be liable for any court costs and reasonable attorney fees incurred by the payee in taking the action. Criminal sanctions, as provided in s. 832.07, may be applicable.

(2) The payee may also charge the maker or drawer of the check, draft, or order of payment a service charge not to exceed the service fees authorized under s. 832.08(5) or 5 percent of the face amount of the instrument, whichever is greater, when making written demand for payment. In the event that a judgment or decree is rendered, interest at the rate and in the manner described in s. 55.03 may be added toward the total amount due. Any bank fees incurred by the payee may be charged to the maker or drawer of the check, draft, or order of payment.

(3) Before recovery under this section may be claimed, a written demand must be delivered by certified or registered mail, evidenced by return receipt, or by first-class mail, evidenced by an affidavit of service of mail, to the maker or drawer of the check, draft, or order of payment to the address on the check or other instrument, to the address given by the drawer at the time the instrument was issued, or to the drawer's last known address. The form of such notice shall be substantially as follows:

"You are hereby notified that a check numbered in the face amount of \$.... issued by you on ...(date)..., drawn upon ...(name of bank)..., and payable to, has been dishonored. Pursuant to Florida law, you have 30 days from receipt of this notice to tender payment in cash of the full amount of the check plus a service charge of \$25, if the face value does not exceed \$50, \$30, if the face value exceeds \$50 but does not exceed \$300, \$40, if the face value exceeds \$300, or 5 percent of the face amount of the check, whichever is greater, the total amount due being \$.... and cents. Unless this amount is paid in full within the 30-day period, the holder of the check or instrument may file a civil action against you for three times the amount of the check, but in no case less than \$50, in addition to the payment of the check plus any court costs, reasonable attorney fees, and any bank fees incurred by the payee in taking the action."

(4) A subsequent person receiving a check, draft, or order, from the original payee or a successor endorsee has the same rights that the original payee has against the maker of the instrument, provided such subsequent person gives notice in a substantially similar form to that provided above. A subsequent person providing such notice shall be immune from civil liability for the giving of such notice and for proceeding under the forms of such notice, so long as the maker of the instrument has the same defenses against the subsequent person as against the original payee. However, the remedies available under this section may be exercised only by one party in interest.

(5) Subsequent to the commencement of the action but prior to the hearing, the maker or drawer may tender to the payee, as satisfaction of the claim, an amount of money equal to the sum of the check, the service charge, court costs, and incurred bank fees. Other provisions notwithstanding, the maker or drawer is liable to the payee for all attorney fees and collection costs incurred by payee as a result of the payee's claim.

(6) If the court or jury determines that the failure of the maker or drawer to satisfy the dishonored check was due to economic hardship, the court or jury has the discretion to waive all or part of the statutory damages.

GEORGIA

§ 13-6-15. Damages for the writing of bad checks

(a) Notwithstanding any criminal sanctions which may apply, any person who makes, utters, draws, or delivers any check, draft, or order upon any bank, depository, person, firm, or corporation for the payment of money, which drawee refuses to honor the instrument for lack of funds or credit in the account from which to pay the instrument or because the maker has no account with the drawee, and who fails to pay the same amount in cash to the payee named in the instrument within ten days after a written demand therefor, as provided in subsection (c) of this Code

section, has been delivered to the maker by certified mail, or statutory overnight delivery shall be liable to the payee, in addition to the amount owing upon such check, draft, or order, for damages of double the amount so owing, but in no case more than \$500.00, and any court costs incurred by the payee in taking the action. In addition to delivery of notice as provided for herein, notice may be given by first-class mail to the address printed on the check given by the maker at the time of issuance or, in the case of a draft or order, to the last known address. If the question of sufficiency of notice becomes an issue, when notice is by first-class mail, the sender of the purported notice shall give an affidavit, under oath, that notice was made as provided for herein and there shall be a rebuttable presumption that proper notice was given.

(b) The payee may charge the maker of the check, draft, or order a service charge not to exceed \$30.00 or 5 percent of the face amount of the instrument, whichever is greater, plus the amount of any fees charged to the holder of the instrument by a bank or financial institution as a result of the instrument not being honored, when making written demand for payment.

(c) Before any recovery under subsection (a) of this Code section may be claimed, a written demand in substantially the form which follows shall be sent by certified mail, statutory overnight delivery, or first-class mail supported by an affidavit of service to the address printed or written on the check given by the maker at the time of issuance of the check or, in the case of a draft or order, to the last known address, the notice to be deemed conclusive ten days following the date the affidavit is executed, to the maker of the instrument at the address shown on the instrument:

"You are hereby notified that a check or instrument numbered _____, issued by you on _____ (date), drawn upon _____ (name of bank), and payable to _____, has been dishonored. Pursuant to Georgia law, you have ten days from receipt of this notice to tender payment of the full amount of the check or instrument plus a service charge of \$30.00 or 5 percent of the face amount of the check or instrument, whichever is greater, plus the amount of any fees charged to the holder of the instrument by a bank or financial institution as a result of the instrument not being honored, the total amount due being \$_____. Unless this amount is paid in full within the ten-day period, the holder of the check or instrument may file a civil suit against you for two times the amount of the check or instrument, but in no case more than \$500.00, in addition to the payment of the check or instrument plus any court costs incurred by the payee in taking the action."

(d) For purposes of this Code section, the holder of the dishonored check, draft, or order shall file the action in the county where the defendant resides.

(e) It shall be an affirmative defense, in addition to other defenses, to an action under this Code section if it is found that:

(1) Full satisfaction of the amount of the check or instrument plus the applicable service charge and any fees charged to the holder of the instrument by a bank or financial institution as a result of the instrument not being honored was made prior to the commencement of the action;

(2) The bank or depository erred in dishonoring the check or instrument; or

(3) The acceptor of the check or instrument knew at the time of acceptance that there were insufficient funds on deposit in the bank or depository with which to cause the check or instrument to be honored.

(f) In an action under this Code section, the court or jury may, however, waive all or part of the double damages upon finding that the defendant's failure to satisfy the dishonored check or instrument was due to the defendant receiving a dishonored check or instrument written to the defendant by another party.

(g) Subsequent to the commencement of the civil action under this Code section, but prior to the hearing, the defendant may tender to the plaintiff as satisfaction of the claim an amount of money equal to the sum of the amount of the dishonored check, service charges on the check, any fees charged to the holder of the instrument by a bank or financial institution as a result of the instrument not being honored, and any court costs incurred by the plaintiff in taking the action.

(h) In an action under this Code section, if the court or jury determines that the failure of the defendant to satisfy the dishonored check was due to economic hardship, the court or jury has the discretion to waive all or part of the double damages. However, if the court or jury waives all or part of the double damages, the court or jury shall

render judgment against the defendant in the amount of the dishonored check plus service charges on the check plus any fees charged to the holder of the instrument by a bank or financial institution as a result of the instrument not being honored and any court costs incurred by the plaintiff in taking the action.

HAWAII

§ 490:3-506.5. Charges for dishonored checks.

The payee or a holder in due course of any check, draft, or order for the payment of money that has been dishonored for lack of funds or credit to pay the check, draft, or order or because the maker has no account with the drawee shall be allowed to assess the maker a reasonable service charge of not more than \$20.

IDAHO

28-22-105 Checks dishonored by nonacceptance or nonpayment -- Liability for interest -- Collection costs and attorney's fees.

Whenever a check, as defined in section 28-3-104, Idaho Code, has been dishonored by nonacceptance or nonpayment and has not been paid within fifteen (15) days and after the holder of such check sends such notice of dishonor as provided in section 28-22-106, Idaho Code, to the drawer, then if the check does not provide for the payment of interest, or collection costs and attorney's fees, the drawer of such check shall also be liable for payment of interest at the rate of twelve percent (12%) per annum from the date of dishonor and cost of collection not to exceed twenty dollars (\$20.00) or the face amount of the check, whichever is the lesser, provided however, that if the holder of the dishonored check has the right to collect a set fee under a written agreement or has notified the drawer by a posted notice at the point of sale that the drawer will be required to pay a set collection fee if the check is dishonored, the holder is not required to give the notice of dishonor as provided in section 28-22-106, Idaho Code, and may assess a collection cost of the notice amount regardless of the size of the check, but the set fee may not exceed twenty dollars (\$20.00). In addition, in the event of court action on the check, the court, after such notice and the expiration of said fifteen (15) days, shall award reasonable attorney's fees as part of the damages payable to the holder of the check. No attorney's fees may be awarded to a collection agency in a proceeding pursuant to section 1-2301A, Idaho Code. The provisions of this section shall not apply to any check which has been dishonored by reason of any justifiable stop payment order.

ILLINOIS

5/3-806. Checks or drafts not honored upon presentment--Liability of drawer

§ 3-806. Any person who issues a check or other draft that is not honored upon presentment because the drawer does not have an account with the drawee, or because the drawer does not have sufficient funds in his account, or because the drawer does not have sufficient credit with the drawee, shall be liable in the amount of \$25, or for all costs and expenses, including reasonable attorney's fees, incurred by any person in connection with the collection of the amount for which the check or other draft was written, whichever is greater, and shall be liable for interest upon the amount of the check or other draft at the rate provided in subsection (1) of Section 4 of the Interest Act. [FN1] Costs and expenses shall include reasonable costs and expenses incurred in the nonlitigated collection of the check or other draft.

A person who undertakes a nonlitigated collection against the person who issued a check or other draft that is not honored upon presentment shall make a written demand by certified mail, return receipt requested, delivered to the last known address of that person in order to become eligible for any costs and expenses in excess of \$25. The written demand shall demand payment within 30 days of the mailing of the demand and shall include notice of liability for the costs and expenses.

A fee or charge not to exceed \$4.50 may be assessed to any person or owner of a commercial checking account or other similar commercial account where a check or other draft that is deposited into the account is dishonored upon presentment because of insufficient funds or because the drawer does not have an account with the drawee; provided, however, that, the limitation on the fee or charge specified in this paragraph does not apply to any fee or charge assessed to any bank or other depository institution or to any non-commercial checking account or other similar non-commercial account.

INDIANA

26-1-3.1-502.5 Surcharge after dishonor

A person to whom a check, a draft, an order, or like instrument is tendered may, if the instrument is dishonored or returned unpaid for any reason, charge and collect from the maker or drawer, or the person for whose benefit the instrument was given, an amount not to exceed twenty dollars (\$20) plus an amount equal to the actual charge by

the depository institution for each returned or dishonored instrument. The charge shall not be considered an interest charge, a finance charge, a time price differential, or any charge of a similar nature.

IOWA

554.3512. Holder's recourse for dishonor

1. The holder of a dishonored check, draft, or order may assess against the maker of that check, draft, or order a surcharge not to exceed thirty dollars.

2. The surcharge authorized by this section shall not be assessed unless the holder clearly and conspicuously posts a notice at the usual place of payment, or in the billing statement of the holder, stating that a surcharge will be assessed and the amount of the surcharge. However, the surcharge shall not be assessed against the maker if the reason for the dishonor of the check, draft, or order is that the maker has stopped payment pursuant to section 554.4403.

KANSAS

60-2610. Civil liability for worthless check.

(a) If a person gives a worthless check, the person shall be liable to the holder of the check for the amount of the check, the incurred court costs, the incurred service charge, interest at the statutory rate and the costs of collection including but not limited to reasonable attorney fees, plus an amount equal to the greater of the following:

(1) Damages equal to three times the amount of the check but not exceeding the amount of the check by more than \$500; or

(2) \$100.

The court may waive all or part of the attorney fees provided for by this subsection, if the court finds that the damages and other amounts awarded are sufficient to adequately compensate the holder of the check. In the event the court waives all or part of the attorney fees, the court shall make written findings of fact as to the specific reasons that the amounts awarded are sufficient to adequately compensate the holder of the check.

(b) The amounts specified by subsection (a) shall be recoverable in a civil action brought by or on behalf of the holder of the check only if: (1) Not less than 14 days before filing the civil action, the holder of the check made written demand on the maker or drawer for payment of the amount of the check, the incurred service charge and accrued interest; and (2) the maker or drawer failed to tender to the holder, prior to the filing of the action, an amount not less than the amount demanded.

The written demand shall be sent by first class mail, to the person to be given notice at such person's address as it appears on such check, draft or order or to the last known address of the maker or drawer. The written demand shall include notice that, if the money is not paid within 14 days, triple damages in addition to an amount of money equal to the sum of the amount of the check, the incurred service charge, court costs, accrued interest, the costs of collection, including but not limited to, reasonable attorney fees unless the court otherwise orders, may be incurred by the maker or drawer of the check.

Notice required by subsection (b)(1) shall state the exact amount and date due, as well as an estimate of the amount that may be incurred if the amount demanded is not paid by the specified date.

(c) Subsequent to the filing of an action under this section but prior to the commencement of a dispositional hearing by the court, the defendant may tender to the plaintiff as satisfaction of the claim, an amount of money equal to the sum of the amount of the check, the incurred service charge, accrued interest, the costs of collection including, but not limited to, reasonable attorney fees and court costs. The plaintiff shall include in the petition a statement alleging that the defendant may tender such amount as satisfaction of the claim as provided in this subsection. If the amount alleged in the petition is tendered to the plaintiff in full satisfaction of the debt prior to the commencement of the dispositional hearing by the court, the case shall be dismissed by the plaintiff. For purposes of this subsection only, the amount tendered as satisfaction of the claim shall not include triple damages or damages of \$100 as provided in subsections (a)(1) and (2). For purposes of this subsection, a dispositional hearing means a trial or other hearing by the court in which the plaintiff is seeking the entry of judgment against the defendant. The court may waive all or part of the attorney fees provided for by this subsection, if the court finds that the damages and other amounts awarded are sufficient to adequately compensate the holder of the check. In

the event the court waives all or part of the attorney fees, the court shall make written findings of fact as to the specific reasons that the amounts awarded are sufficient to adequately compensate the holder of the check.

(d) If the trier of fact determines that the failure of the defendant to satisfy the dishonored check was due to economic hardship, the court may waive all or part of the damages provided for by this section, but the court shall render judgment against defendant for not less than the amount of the dishonored check, the incurred court costs, service charge, costs of restricted mail and the costs of collection, including but not limited to reasonable attorney fees, unless otherwise provided in this subsection. The court may waive all or part of the attorney fees provided for by this subsection, if the court finds that the damages and other amounts awarded are sufficient to adequately compensate the holder of the check. In the event the court waives all or part of the attorney fees, the court shall make written findings of fact as to the specific reasons that the amounts awarded are sufficient to adequately compensate the holder of the check.

(e) Any amount previously paid as restitution or reparations to the holder of the check by or on behalf of its maker or drawer shall be credited against the amount for which the maker or drawer is liable under subsection (a).

(f) Conviction of giving a worthless check or habitually giving a worthless check, as defined by K.S.A. 21-3707, and amendments thereto, shall not be a prerequisite or bar to recovery pursuant to this section.

(g) The service charge on a check which is dishonored by the drawee because the maker or drawer had no deposits in or credits with the drawee or has not sufficient funds in, or credits with, the drawee for the payment of each check, order or draft in full upon its presentation, shall not exceed \$30.

(h) As used in this section, "giving a worthless check" means the making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering of any check, order or draft on any bank, credit union, savings and loan association or depository for the payment of money or its equivalent:

(1) With intent to defraud or in payment for a preexisting debt; or

(2) Which is dishonored by the drawee because the maker or drawer had no deposits in or credits with the drawee or has not sufficient funds in, or credits with, the drawee for the payment of such check, order or draft in full upon its presentation; and

(3) for which the maker or drawer has not tendered to the holder's agent the amount of money demanded and within the time allowed by the demand required in subsection (b).

KENTUCKY

514.040 Theft by deception

(1) A person is guilty of theft by deception when the person obtains property or services of another by deception with intent to deprive the person thereof. A person deceives when the person intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind;

(b) Prevents another from acquiring information which would affect judgment of a transaction;

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom the person stands in a fiduciary or confidential relationship;

(d) Fails to disclose a known lien, adverse claim, or other legal impediment to the enjoyment of property which the person transfers or encumbers in consideration for the property obtained, whether the impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1) of this section, a maker of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The maker had no account with the drawee at the time the check or order was issued; or

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the maker failed to make good within ten (10) days after receiving notice of that refusal. A maker makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any merchant's posted reasonable bad check handling fee not to exceed twenty-five dollars (\$25) and any fee imposed pursuant to subsection (5) of this section.

(5) If a county attorney issues notice to a maker that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b), of this section, the county attorney may charge a fee to the maker of twenty-five dollars (\$25), if the instrument is paid. Money paid to the county attorney pursuant to this section shall be used only for payment of county attorney office operating expenses. Excess fees held by the county attorney on June 30 of each year shall be turned over to the county treasurer before the end of the next fiscal year for use by the fiscal court of the county.

(6) A person is guilty of theft by deception when the person issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(7) A person is guilty of theft by deception when the person issues a check or similar sight order in payment of all or any part of a child support obligation knowing that it will not be honored by the drawee.

(8) Theft by deception is a Class A misdemeanor unless the value of the property, service, or the amount of the check or sight order referred to in subsection (6) or (7) of this section is three hundred dollars (\$300) or more, in which case it is a Class D felony.

LOUISIANA

§ 2782. Nonsufficient fund checks; damages, attorney fees

A. Whenever any drawer of a check dishonored for nonsufficient funds fails to pay the obligation created by the check within fifteen working days after receipt of written demand for payment thereof delivered by certified or registered mail, the drawer shall be liable to the payee or a person subrogated to the rights of the payee for damages of twice the amount so owing, but in no case less than one hundred dollars plus attorney fees and court costs.

B. The payee, his agent or assignee, or a holder may charge the drawer of the check a service charge not to exceed twenty-five dollars or five percent of the face amount of the check, whichever is greater, when making written demand for payment. The payee shall post a notice indicating the amount to be charged a drawer of a check if the check is returned for nonsufficient funds. Such notice shall be posted on the payee's business premises in a convenient and conspicuous place where persons entering the location will see it.

C. (1) Before any recovery under Subsection A of this Section may be claimed, a written demand in substantially the form which follows shall be sent by certified or registered mail to the drawer of the check at the address shown on the instrument:

"You are hereby notified that a check numbered _____, issued by you on _____ (date), drawn upon _____, (name of bank), and payable to _____, has been dishonored. Pursuant to Louisiana law, you have fifteen working days from receipt of this notice to tender payment in full of the amount of the check plus a service charge of twenty-five dollars or five percent of the face amount of the check, whichever is greater, the total amount due being _____. Unless this amount is paid in full within the fifteen- working-day period, the holder of the check may file a civil action against you for two times the amount of the check or one hundred dollars, whichever is greater, plus any court costs and reasonable attorney fees incurred by the payee in taking the action."

(2) Notice mailed by certified or registered mail evidenced by return receipt to the address printed on the check or given at the time of issuance shall be deemed sufficient and equivalent to notice having been received by the person making the check.

(3) It shall be prima facie evidence that the drawer knew that the instrument would not be honored if notice mailed by certified or registered mail is returned to the sender when such notice is mailed within a reasonable time of dishonor to the address printed on the instrument or given by the drawer at the time of issuance of the check.

MAINE

Undetermined.

MARYLAND

§ 15-802. Nonacceptance or nonpayment

(a) When a check or other instrument has been dishonored by nonacceptance or nonpayment and has not been paid within 10 days, the holder to whom the check or other instrument was issued or negotiated may send a notice of dishonor to the maker or drawer as provided under this section.

(b) If a check or other instrument has not been paid within 30 days after the holder has sent a notice of dishonor to the maker or drawer, the maker or drawer of a check or other instrument that has been dishonored shall be liable for:

- (1) The amount of the check or instrument;
- (2) A collection fee of up to \$35; and
- (3) An amount up to 2 times the amount of the check, but not more than \$1,000.

(c)(1)(i) The holder of a check or other instrument that has been dishonored may seek the damages provided under this section in the District Court of Maryland 30 days after a notice of dishonor has been sent by mail to the last known address of the maker or drawer.

(ii) For each notice sent by the holder under subparagraph (i) of this paragraph, the holder shall:

1. Obtain a certificate of mailing from the U.S. Postal Service; or
2. Execute an affidavit that attests to the mailing of the notice in compliance with subparagraph (i) of this paragraph.

(2) A notice of dishonor sent by a holder under this section to a maker or drawer of a dishonored check or other instrument shall substantially comply with the form prescribed in § 15-803 of this subtitle.

(d) A holder may not recover any damages under subsection (b)(3) of this section if:

(1) The holder has demanded of, and received from, the maker or drawer:

(i) Collection costs in excess of the collection fee provided under subsection (b)(2) of this section; or

(ii) Collection costs within 30 days after the mailing of the notice of dishonor, under subsection (c) of this section; or

(2) The dishonored check or other instrument provides for the payment of collection costs in the event of dishonor.

(e)(1) It shall be a complete defense to any action brought under this section by any holder of a dishonored check or other instrument that, within 30 days from the mailing of the notice of dishonor, the maker or drawer has paid to the holder the full amount of the check or other instrument and collection costs of not more than \$35.

(2) It shall be a complete defense to any action brought under this section by a holder to whom a dishonored

(a) The full amount of the check, draft, or order.

(b) Civil damages of 2 times the amount of the dishonored check, draft, or order or \$100.00, whichever is greater.

(c) Costs of \$250.00.

(5) Subsection (4) does not apply if, before the trial of an action brought pursuant to this section, the maker pays to the payee or a designated agent of the payee, in cash, the total of the amounts described in subsection (3)(b), plus reasonable costs, not exceeding \$250.00, as agreed to by the parties.

(6) An action under this section may be brought in the small claims division of the district court, if it does not exceed the jurisdiction of the small claims division, or in any other appropriate court. If the amount of the check exceeds the jurisdiction of the small claims division, the action may still be brought in the small claims division, but the amount of damages awarded shall not exceed the jurisdiction of the small claims division.

MINNESOTA

604.113. Issuance of worthless check

Subdivision 1. Definitions. (a) The definitions provided in this subdivision apply to this section.

(b) "Check" means a check, draft, order of withdrawal, or similar negotiable or nonnegotiable instrument.

(c) "Credit" means an arrangement or understanding with the drawee for the payment of the check.

(d) "Dishonor" has the meaning given in section 336.3-502, but does not include dishonor due to a stop payment order requested by an issuer who has a good faith defense to payment on the check. "Dishonor" does include a stop payment order requested by an issuer if the account did not have sufficient funds for payment of the check at the time of presentment, except for stop payment orders on a check found to be stolen.

(e) "Payee" or "holder" includes an agent of the payee or holder.

Subd. 2. Acts constituting. Whoever issues any check that is dishonored is liable for the following penalties:

(a) A service charge, not to exceed \$30, may be imposed immediately on any dishonored check by the payee or holder of the check, regardless of mailing a notice of dishonor, if notice of the service charge was conspicuously displayed on the premises when the check was issued. Only one service charge may be imposed under this paragraph for each dishonored check. The displayed notice must also include a provision notifying the issuer of the check that civil penalties may be imposed for nonpayment.

(b) If the amount of the dishonored check is not paid within 30 days after the payee or holder has mailed notice of dishonor pursuant to section 609.535 and a description of the penalties contained in this subdivision, whoever issued the dishonored check is liable to the payee or holder of the check for:

(1) the amount of the check, the service charge as provided in paragraph (a), plus a civil penalty of up to \$100 or the value of the check, whichever is greater. In determining the amount of the penalty, the court shall consider the amount of the check and the reason for nonpayment. The civil penalty may not be imposed until 30 days following the mailing of the notice of dishonor. A payee or holder of the check may make a written demand for payment of the civil liability by sending a copy of this section and a description of the liability contained in this section to the issuer's last known address. Notice as provided in paragraph (a) must also include notification that additional civil penalties will be imposed for dishonored checks for nonpayment after 30 days;

(2) interest at the rate payable on judgments pursuant to section 549.09 on the face amount of the check from the date of dishonor; and

(3) reasonable attorney fees if the aggregate amount of dishonored checks issued by the issuer to all payees within a six-month period is over \$1,250.

(c) This subdivision prevails over any provision of law limiting, prohibiting, or otherwise regulating service charges authorized by this subdivision, but does not nullify charges for dishonored checks, which do not exceed the

charges in paragraph (a) or terms or conditions for imposing the charges which have been agreed to by the parties in an express contract.

(d) A sight draft may not be used as a means of collecting the civil penalties provided in this section without prior consent of the issuer.

(e) The issuer of a dishonored check is not liable for the penalties described in paragraph (b) if a pretrial diversion program under section 628.69 has been established in the jurisdiction where the dishonored check was issued, the issuer was accepted into the program, and the issuer successfully completes the program.

Subd. 3. Notice of dishonor required. Notice of nonpayment or dishonor that includes a citation to this section and section 609.535, and a description of the penalties contained in these sections, shall be sent by the payee or holder of the check to the drawer by certified mail, return receipt requested, or by regular mail, supported by an affidavit of service by mailing, to the address printed or written on the check.

The issuance of a check with an address printed or written on it is a representation by the drawer that the address is the correct address for receipt of mail concerning the check. Failure of the drawer to receive a regular or certified mail notice sent to that address is not a defense to liability under this section, if the drawer has had actual notice for 30 days that the check has been dishonored.

An affidavit of service by mailing shall be retained by the payee or holder of the check.

Subd. 4. Proof of identity. The check is prima facie evidence of the identity of the issuer if the person receiving the check:

(a) records the following information about the issuer on the check, unless it is printed on the face of the check:

(1) name;

(2) home or work address;

(3) home or work telephone number, and

(4) identification number issued pursuant to section 171.07;

(b) compares the issuer's physical appearance, signature, and the personal information recorded on the check with the issuer's identification card issued pursuant to section 171.07; and

(c) initials the check to indicate compliance with these requirements.

Subd. 5. Defenses. Any defense otherwise available to the issuer also applies to liability under this section.

MISSISSIPPI

§ 97-19-57. Presumption of fraudulent intent; notice

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

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

above shall be prima facie evidence of and create a presumption of both the intent to defraud and the knowledge of insufficient funds in, or on deposit with, such bank in violation of Section 97-19-55."

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

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

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

"STATE OF

COUNTY OF

_____, being first duly sworn on oath, deposes and states that he/she is at least eighteen (18) years of age and that on (date) _____, 2____, he/she served the attached Notice of Dishonor by placing a true and correct copy thereof securely enclosed in an envelope addressed as follows:

and deposited the same, postage prepaid, in the United States mail at

(signature)

Subscribed to and sworn before me, this the _____ day of _____, 2_____.

(Notary Public)

My commission expires:

(SEAL)"

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

MISSOURI

570.120 Crime of passing bad checks, penalty--actual notice given, when-- administrative handling costs, amount, deposit in fund--use of fund--payroll action, when--collection of service charge--return of bad check to depositor by financial institution must be on condition that issuer is identifiable

1. A person commits the crime of passing a bad check when:

(1) With purpose to defraud, the person makes, issues or passes a check or other similar sight order for the payment of money, knowing that it will not be paid by the drawee, or that there is no such drawee; or

(2) The person makes, issues, or passes a check or other similar sight order for the payment of money, knowing that there are insufficient funds in that account or that there is no such account or no drawee and fails to pay the check or sight order within ten days after receiving actual notice in writing that it has not been paid because of insufficient funds or credit with the drawee or because there is no such drawee.

2. As used in subdivision (2) of subsection 1 of this section, "actual notice in writing" means notice of the nonpayment which is actually received by the defendant. Such notice may include the service of summons or warrant upon the defendant for the initiation of the prosecution of the check or checks which are the subject matter of the prosecution if the summons or warrant contains information of the ten-day period during which the instrument may be paid and that payment of the instrument within such ten-day period will result in dismissal of the charges. The requirement of notice shall also be satisfied for written communications which are tendered to the defendant and which the defendant refuses to accept.

3. The face amounts of any bad checks passed pursuant to one course of conduct within any ten-day period may be aggregated in determining the grade of the offense.

4. Passing bad checks is a class A misdemeanor, unless:

(1) The face amount of the check or sight order or the aggregated amounts is five hundred dollars or more; or

(2) The issuer had no account with the drawee or if there was no such drawee at the time the check or order was issued, in which cases passing bad checks is a class D felony.

5. (1) In addition to all other costs and fees allowed by law, each prosecuting attorney or circuit attorney who takes any action pursuant to the provisions of this section shall collect from the issuer in such action an administrative handling cost. The cost shall be five dollars for checks of less than ten dollars, ten dollars for checks of ten dollars but less than one hundred dollars, and twenty-five dollars for checks of one hundred dollars or more. For checks of one hundred dollars or more an additional fee of ten percent of the face amount shall be assessed, with a maximum fee for administrative handling costs not to exceed fifty dollars total. Notwithstanding the provisions of sections 50.525 to 50.745, RSMo, the costs provided for in this subsection shall be deposited by the county treasurer into a separate interest-bearing fund to be expended by the prosecuting attorney or circuit attorney. The funds shall be expended, upon warrants issued by the prosecuting attorney or circuit attorney directing the treasurer to issue checks thereon, only for purposes related to that previously authorized in this section. Any revenues that are not required for the purposes of this section may be placed in the general revenue fund of the county or city not within a county. Notwithstanding any law to the contrary, in addition to the administrative handling cost, the prosecuting attorney or circuit attorney shall collect an additional cost of one dollar per check for deposit to the Missouri office of prosecution services fund established in subsection 2 of section 56.765, RSMo. All moneys collected pursuant to this section which are payable to the Missouri office of prosecution services fund shall be transmitted at least monthly by the county treasurer to the director of revenue who shall deposit the amount collected pursuant to the credit of the Missouri office of prosecution services fund under the procedure established pursuant to subsection 2 of section 56.765, RSMo.

(2) The moneys deposited in the fund may be used by the prosecuting or circuit attorney for office supplies, postage, books, training, office equipment, capital outlay, expenses of trial and witness preparation, additional employees for the staff of the prosecuting or circuit attorney and employees' salaries.

(3) This fund may be audited by the state auditor's office or the appropriate auditing agency.

(4) If the moneys collected and deposited into this fund are not totally expended annually, then the unexpended

balance shall remain in said fund and the balance shall be kept in said fund to accumulate from year to year.

6. Notwithstanding any other provision of law to the contrary:

(1) In addition to the administrative handling costs provided for in subsection 5 of this section, the prosecuting attorney or circuit attorney may collect from the issuer, in addition to the face amount of the check, a reasonable service charge, which along with the face amount of the check, shall be turned over to the party to whom the bad check was issued;

(2) If a check that is dishonored or returned unpaid by a financial institution is not referred to the prosecuting attorney or circuit attorney for any action pursuant to the provisions of this section, the party to whom the check was issued, or his or her agent or assignee, or a holder, may collect from the issuer, in addition to the face amount of the check, a reasonable service charge, not to exceed twenty-five dollars, plus an amount equal to the actual charge by the depository institution for the return of each unpaid or dishonored instrument.

7. In all cases where a prosecutor receives notice from the original holder that a person has violated this section with respect to a payroll check or order, the prosecutor, if he determines there is a violation of this section, shall file an information or seek an indictment within sixty days of such notice and may file an information or seek an indictment thereafter if the prosecutor has failed through neglect or mistake to do so within sixty days of such notice and if he determines there is sufficient evidence shall further prosecute such cases.

8. When any financial institution returns a dishonored check to the person who deposited such check, it shall be in substantially the same physical condition as when deposited, or in such condition as to provide the person who deposited the check the information required to identify the person who wrote the check.

MONTANA

27-1-717. Issuing a bad check, draft, converted check, electronic funds transfer, or order or stopping payment -- civil liability

(1) A person who issues a check, draft, converted check, electronic funds transfer, or order for the payment of money is liable for a service charge, as provided in subsection (2), or for damages in a civil action, as provided in subsection (3), to the payee to whom the check, draft, converted check, electronic funds transfer, or order is issued, or the payee's assignee, if the check, draft, converted check, electronic funds transfer, or order is:

(a) dishonored for lack of funds or credit or because the issuer does not have an account with the drawee; or

(b) issued in partial or complete fulfillment of a valid and legally binding obligation and the issuer stops payment with the intent to fraudulently defeat a possessory lien or otherwise defraud the payee of the check.

(2) The person who issues the check, draft, converted check, electronic funds transfer, or order is liable to the payee or the payee's assignee for a service charge in a reasonable amount, not greater than \$30. The payee or the payee's assignee may waive the service charge. Demand for the service charge must be made in writing by the payee or the payee's assignee and mailed to the address shown on the check, draft, converted check, or order or to the issuer's last-known address. The demand must state that the issuer is required to pay the value of the check, draft, converted check, electronic funds transfer, or order and service charge and must state the service charge provided for in this section.

(3) The amount of damages awarded pursuant to subsection (1) must be an amount equal to the service charge plus the greater of \$100 or three times the amount for which the check, draft, converted check, electronic funds transfer, or order was issued. However, damages may not exceed the value of the check, draft, converted check, electronic funds transfer, or order by more than \$500.

(4) The remedy provided by subsection (3) is available only if:

(a) the payee or the payee's assignee has made the written demand required in subsection (2) not less than 10 days before commencing the action; and

(b) the issuer has failed to tender an amount of money equal to the amount demanded under subsection (2) prior to the commencement of the action.

(5) The remedy provided by this section:

(a) may be pursued notwithstanding the provisions of 27-1-312;

(b) may be pursued whether or not a criminal penalty is sought under 45-6-316 or any other statute providing a criminal penalty; and

(c) does not affect the obligation of the issuer provided for in 30-3-423 to pay the amount of the draft. However, in case of any inconsistency with the provisions of Title 30, chapter 3, the provisions of this section apply.

(6) Upon introduction by the payee or the payee's assignee of evidence sufficient to establish the fact of mailing as required under subsection (2), the failure to receive the written demand is not a defense to the action allowed under subsection (3).

(7) This section applies to all checks, drafts, converted checks, electronic funds transfers, and orders, including those electronically presented for payment.

(8) Making partial payments of amounts owed under this section or entering into an agreement for paying in whole or in part amounts owed under this section does not waive any right that the payee or the payee's assignee may have under this section. Once a demand required under this section is made, the demand is not required to be repeated upon partial payment of amounts owed under this section.

NEVADA

597.960. Collection of fee for dishonored check accepted as payment for goods or services

1. A seller, or his agent, may collect a fee of not more than \$25 for each check which was accepted by the seller as payment for goods or services and, upon presentment to the drawee, was not honored because the drawer stopped payment on the check, the drawer does not have an account with the drawee or the drawer does not have sufficient funds in his account or credit with the drawee to cover the amount of the check.

2. As used in this section:

(a) "Check" includes a draft or other negotiable order for the payment of money on demand which is drawn on a bank or other financial institution.

(b) "Drawee" means the person ordered in the check to make payment.

(c) "Drawer" means the person who signs or is identified in the check as the person ordering payment.

NEW HAMPSHIRE

358-C:5 Check Collection Charges.

I. A creditor involved in a consumer credit transaction or a debt collector designated to collect on a check, negotiable order of withdrawal, share draft, or other negotiable instrument may charge and receive a check collection charge of not more than \$25, unless otherwise expressly authorized by written agreement with the consumer.

II. In the case of a consumer credit transaction, disclosure of a check collection charge made pursuant to paragraph I of this section shall be made in the promissory note or sales finance contract. In the case of debt collectors, notification of imposition of a check collection charge pursuant to paragraph I of this section shall be done by telephone or written notice sent by regular mail to the debtor at the debtor's last known telephone number or address or at the address shown on the check or other instrument. The notice shall state the amount of the check collection charge that has been or will be imposed, and shall state that the debtor is responsible for paying the check collection charge as well as the value of the check or other instrument.

NEW JERSEY

Undetermined.

NEW MEXICO

Undetermined.

NEW YORK

§ 5-328. Processing fee by holder of dishonored check

1. As used in this section the following terms shall have the following meanings:

(a) "Holder of a check" means the holder or its assignee, representative or any other person retained by the holder to seek collection of the face value of a dishonored check.

(b) "Dishonored check" means a check, draft or like instrument drawn on a bank or depository institution as full or partial payment for an unpaid balance on an account, or for other extensions of credit or payments of money in connection with a consumer transaction, which is not paid or is dishonored or is returned by such institution due to insufficient funds or other cause not attributable to the holder.

(c) "Consumer transaction" means a transaction in which a natural person is extended credit for, or purchases or leases, personal property, money or services primarily for personal, family or household purposes.

(d) "Account" means a loan account, a retail credit account or an obligation under a retail lease agreement, retail instalment contract or retail instalment obligation or a retail instalment credit agreement, as defined in sections three hundred one, three hundred thirty-one and four hundred one of the personal property law.

2. Notwithstanding the provisions of any law:

(a) The holder of a dishonored check given in payment for a consumer transaction or an account may collect from, charge, or add to the outstanding balance of the account of, the person from whom such check was received or to whom such credit was extended, a dishonored check charge of not more than the lesser of the amount agreed upon, if contracted for, or twenty dollars.

(b) A dishonored check charge shall not be deemed a credit service charge, interest or an incident to or a condition to the extension of credit, for any purpose of law.

3. Notwithstanding any other provision of law, any person to whom a check, draft or like instrument, other than a money order, bank cashier's check or certified check, is tendered for any transaction, other than a consumer transaction, may, if such instrument is dishonored charge or collect from the maker or drawer the amount of twenty dollars for the return of such unpaid or dishonored instrument.

NORTH CAROLINA

§ 25-3-506. Collection of processing fee for returned checks

A person who accepts a check in payment for goods or services or his assignee may charge and collect a processing fee, not to exceed twenty-five dollars (\$25.00), for a check on which payment has been refused by the payor bank because of insufficient funds or because the drawer did not have an account at that bank.

(1) to (4) Deleted by S.L. 2000-118, § 1, eff. Oct. 1, 2000.

If a collection agency collects or seeks to collect on behalf of its principal a processing fee as specified in this section in addition to the sum payable of a check, the amount of such processing fee must be separately stated on the collection notice. The collection agency shall not collect or seek to collect from the drawer any sum other than the actual amount of the returned check and the specified processing fee.

NORTH DAKOTA

6-08-16.2 Issuing check without account – Financial liability – Penalty – Exceptions.

1. As used in this section:

a. "Account" means any account at a bank or depository from which an instrument could legally be paid.

b. "Dishonor" is synonymous with "nonpayment".

c. "Instrument" means any check, draft, electronic funds transfer authorization, or order for the payment of money.

d. "Issues" means draws, utters, electronically authorizes, or delivers.

2. A person who, for that person or as agent or representative of another, willfully as defined in section 12.1-02-02 issues any instrument is guilty of a class C felony if that person has been previously convicted of issuing an instrument without an account pursuant to section 6-08-16.1, and at the time of issuing the instrument the drawer does not have an account with the bank or depository on which the instrument is drawn.

3. A person who, for that person or an agent or representative of another, willfully as defined in section 12.1-02-02 issues any instrument is guilty of a class C felony if the instrument was for at least five hundred dollars or that person, agent, or representative of another, issues more than one instrument wherein the aggregate total of all instruments issued exceeds five hundred dollars, and at the time of issuing the instrument, the drawer does not have an account with the bank or depository on which the instrument is drawn.

4. A person who issues an instrument under subsection 2 or 3 also is liable for collection fees or costs, not in excess of twenty-five dollars per instrument, which are recoverable by the holder of the instrument, or the holder's agent or representative. A civil penalty is also recoverable by civil action by the holder, or its agent or representative, of the instrument. The civil penalty consists of payment to the holder of the instrument of the lesser of two hundred dollars or three times the amount of the instrument.

5. An agent acting for the receiver of an instrument issued in violation of this section may present the instrument to the state's attorney for prosecution if the holder, or the holder's agent or representative, mailed a notice under subsection 6. A criminal complaint for violating this section must be executed within ninety days after the drawer receives notice from the holder, or its agent or representative, of a no-account or closed-account instrument.

6. A notice of dishonor may be mailed by the holder, or the holder's agent or representative, of the instrument upon dishonor. Proof of mailing may be made by return receipt or by an affidavit of mailing signed by the individual making the mailing. The notice must be in substantially the following form:

Notice of Dishonored Instrument

Date _____

Name of Issuer _____

Street Address _____

City and State _____

You are according to law notified that an instrument dated _____, _____, drawn on the _____ Bank of _____ in the amount of _____ has been returned unpaid with the notation the payment has been refused because (of nonsufficient funds)(the drawer does not have an account). Within ten days from the receipt of this notice, you must pay or tender to _____

(Holder or Agent or Representative)

sufficient moneys to pay such instrument in full and any collection fees or costs not in excess of twenty-five dollars.

The notice may also contain a recital of the penal provisions of this section and the possibility of a civil action to recover any collection fees or costs authorized by this section.

OHIO

1319.16 Check collection charges

(A) If a collection agency has been designated to collect on a check, negotiable order of withdrawal, share draft, or other negotiable instrument that has been returned or dishonored for any reason, the collection agency may charge

and receive check collection charges of not more than thirty dollars or ten per cent of the face amount of the instrument, whichever is greater, and may charge and receive any charge imposed by a financial institution upon the holder of the check, negotiable order of withdrawal, share draft, or other negotiable instrument that has been returned or dishonored for any reason.

(B) A collection agency that imposes a check collection charge pursuant to division (A) of this section shall send written notice by regular mail to the debtor at the debtor's last known address or at the address shown on the check or other instrument. The notice shall provide the amount of the check collection charge that has been imposed, and shall state that the debtor is responsible for paying the check collection charge as well as the value of the check or other instrument.

OKLAHOMA

Undetermined.

OREGON

30.701. Dishonored checks, actions against maker; statutory damages and attorney fees; handling fee

(1) In any action against a maker of a dishonored check, a payee may recover from the maker statutory damages in an amount equal to \$100 or triple the amount for which the check is drawn, whichever is greater. Statutory damages awarded under this subsection are in addition to the amount for which the check was drawn and may not exceed by more than \$500 the amount for which the check was drawn. The court shall allow reasonable attorney fees at trial and on appeal to the prevailing party in an action on a dishonored check and in any action on a check that is not paid because payment has been stopped.

(2) Statutory damages and attorney fees under subsection (1) of this section may be awarded only if the payee made written demand of the maker of the check not less than 30 days before commencing the action and the maker failed to tender to the payee before the commencement of the action an amount of money not less than the amount for which the check was drawn, all interest that has accrued on the check under ORS 82.010 as of the date of demand and any charges imposed under subsection (5) of this section.

(3) Statutory damages under subsection (1) of this section shall not be awarded by the court if after the commencement of the action but before trial the defendant tenders to the plaintiff an amount of money equal to the amount for which the check was drawn, all interest that has accrued on the check under ORS 82.010 as of the date of payment, any charges imposed under subsection (5) of this section, costs and disbursements and the plaintiff's reasonable attorney fees incurred as of the date of the tender.

(4) If the court or jury determines that the failure of the defendant to satisfy the dishonored check at the time demand was made under subsection (2) of this section was due to economic hardship, the court or jury has the discretion to waive all or part of the statutory damages provided for in subsection (1) of this section. If all or part of the statutory damages are waived under this subsection, judgment shall be entered in favor of the plaintiff for the amount of the dishonored check, all interest that has accrued on the check under ORS 82.010, any charges imposed under subsection (5) of this section, the plaintiff's reasonable attorney fees and costs and disbursements.

(5) If a check is dishonored, the payee may collect from the maker a reasonable fee representing the cost of handling and collecting on the check. The total fee for any single check may not exceed \$25. Any award of statutory damages under subsection (1) of this section must be reduced by the amount of any charges imposed under this subsection that have been paid by the maker or that are entered as part of the judgment.

(6) The provisions of this section apply only to a check that has been dishonored because of a lack of funds or credit to pay the check, because the maker has no account with the drawee or because the maker has stopped payment on the check without good cause. A plaintiff is entitled to the remedies provided by this section without regard to the reasons given by the drawee for dishonoring the check.

(7) For the purposes of this section:

(a) "Check" means a check, draft or order for payment of money.

(b) "Drawee" has that meaning given in ORS 75.003.

(c) "Payee" means a payee, holder or assignee of a check.

PENNSYLVANIA

Undetermined.

RHODE ISLAND

6-42-3 Cause of action -- Damages.

(a) If a check, draft, or other instrument has not been paid within thirty (30) days after the holder has sent a notice of dishonor to the maker or drawer of a check, draft, or other instrument that has been dishonored, pursuant to §§ 6-42-1 and 6-42-2, the holder may seek the damages provided under this section in the district court and may at the holder's election be in accordance with the procedure for small claims set forth in chapter 16 of title 10.

(b) The maker or drawer of a dishonored check or other instrument who fails to pay the amount demanded within thirty (30) days of the mailing of the notice of dishonor shall be liable to the holder for:

(1) The amount of the check or other instrument;

(2) A collection fee of twenty-five dollars (\$25.00);

(3) An amount equal to three (3) times the amount of the check or instrument, but in no case less than two hundred dollars (\$200) and in no case more than one thousand dollars (\$1,000).

SOUTH CAROLINA

§ 34-11-70. Prima facie evidence of fraudulent intent in drawing check, draft or other written order, reasonable and probable cause for prosecution.

(a) When a check, a draft, or other written order is not paid by the drawee because the maker or drawer did not have an account with or sufficient funds on deposit with the bank or the person upon which it was drawn when presented or the draft, check, or other written order has an incorrect or insufficient signature on it, and the maker or drawer does not pay the amount due on it, together with a service charge of thirty dollars, within ten days after written notice has been sent by certified mail to the address printed on the check or given at the time it is tendered or provided on a check-cashing identification card stating that payment was refused upon the instrument, then it constitutes prima facie evidence of fraudulent intent against the maker. Service charges collected pursuant to this section must be paid to the payee of the instrument.

(1) For purposes of subsection (a), notice must be given by mailing the notice with postage prepaid addressed to the person at the address as printed or written on the instrument. The giving of notice by mail is complete upon the expiration of ten days after the deposit of the notice in the mail. A certificate by the payee that the notice has been sent as required by this section is presumptive proof that the requirements as to notice have been met, regardless of the fact that the notice actually might not have been received by the addressee. The form of notice must be substantially as follows:

"You are notified that a check or instrument, numbered ____, issued by you on ____ (date), drawn upon ____ (name of bank), and payable to ____, has been dishonored. Pursuant to South Carolina law, you have ten days from the date this notice was mailed to tender payment of the full amount of the check or instrument plus a service charge of thirty dollars, the total amount due being ____ dollars and ____ cents. Unless this amount is paid in full within the specified time above, the holder of the check or instrument may turn over the dishonored check or instrument and all other available information relating to this incident to the solicitor or other appropriate officer for criminal prosecution."

(2) When a person instituting prosecution gives notice in substantially similar form provided in item (1) to the person upon which the instrument was drawn and waits ten days from the date notice is mailed before instituting the criminal proceedings, there arises a presumption that the prosecution was instituted for reasonable and probable cause, and the person instituting prosecution is immune from civil liability for the giving of the notice.

(3) A service charge of not more than thirty dollars is payable by the drawer of a draft, a check, or other written order to the payee of the instrument when the draft, check, or other written order is presented for payment in whole or in part of a then existing debt including, but not limited to, consumer credit transactions, and is dishonored. This service charge is solely to compensate the payee of the instrument for incurred expenses in processing the

dishonored instrument and is not related to a presumption of fraud so that it is not necessary to issue the notice to the person at the address as printed on the instrument set forth in items (1) and (2).

(b) Any court, including magistrate's, may dismiss a case under the provisions of this chapter for want of prosecution. When any prosecutions are initiated under this chapter, the party applying for the warrant is held liable for all reasonable administrative costs accruing not to exceed forty-one dollars if the case is dismissed for want of prosecution. Unless waived by the court, the party applying for the warrant shall notify, orally or otherwise, the court not less than twenty-four hours before the date and time set for trial that full restitution has been made in connection with the warrant, and the notification relieves that party of the responsibility of prosecution.

(c) Any court, including magistrates, may dismiss any prosecution initiated pursuant to the provisions of this chapter on satisfactory proof of restitution and payment by the defendant of all administrative costs accruing not to exceed forty-one dollars submitted before the date set for trial after the issuance of a warrant.

(d) For purposes of this chapter, subsequent persons receiving a check, draft, or other written order by endorsement from the original payee or a successor endorsee have the same rights that the original payee has against the maker of the instrument, if the maker of the instrument has the same defenses against subsequent persons as he may have had against the original payee. However, the remedies available under this chapter may be exercised only by one party in interest.

SOUTH DAKOTA

57A-3-421 Collection costs and expenses -- Liability of issuer of dishonored check.

If a merchant or place of business conspicuously posts a notice on its premises or if a merchant or place of business regularly extends credit and prints a notice on its customer statements of such size and location as to be conspicuous, stating that a fee will be assessed against returned checks, any person who issues a check or other draft to the merchant or place of business which is not honored for any of the following reasons upon presentment is liable for all reasonable costs and expenses of collection:

- (1) The drawer's account is closed;
- (2) The drawer's account does not have sufficient funds; or
- (3) The drawer does not have sufficient credit with the drawee.

The costs and expenses provided for in this section are reasonable if they do not exceed thirty dollars plus any applicable sales tax.

TENNESSEE

§ 47-29-102. Handling charge

When any check, draft, or order is not paid by the drawee because the maker or drawer did not have an account with or sufficient funds on deposit with the financial institution, or the draft, check, or order has an incorrect or insufficient signature thereon, the payee of such check, draft, or order is authorized to assess a handling charge against such maker or drawer in an amount not to exceed twenty dollars (\$20.00).

TEXAS

§ 3.506. Processing Fee by Holder of Dishonored Check

(a) On return of a check to the holder following dishonor of the check by a payor, the holder, the holder's assignee, agent, or representative, or any other person retained by the holder to seek collection of the face value of the dishonored check may charge the drawer or endorser a reasonable processing fee of not more than \$30.

(b) A person may not charge a processing fee to a drawer or endorser under this section if the fee has been collected under Article 102.007(e) or 102.0071, Code of Criminal Procedure. If a processing fee has been collected under this section and the holder subsequently receives a fee collected under Article 102.007(e) or 102.0071, Code of Criminal Procedure, the holder shall immediately refund the fee previously collected from the drawer or endorser.

(c) Notwithstanding any other law, a loan agreement made under Chapter 342, Finance Code, may provide that on return of a dishonored check given in payment under the agreement, the holder may charge the obligor under the

agreement the processing fee authorized by this section, and the fee may be added to the unpaid balance owed under the agreement. Interest may not be charged on the fee during the term of the agreement.

(d) This section does not affect any right or remedy to which the holder of a check may be entitled under any rule, written contract, judicial decision, or other statute.

UTAH

7-15-1 Definitions --Civil liability of issuer --Notice of action -- Collection costs --Exemptions.

(1) As used in this chapter:

(a) "Check" means a payment instrument on a depository institution including a:

- (i) check;
- (ii) draft;
- (iii) order; or
- (iv) other instrument.

(b) "Issuer" means a person who makes, draws, signs, or issues a check, whether as corporate agent or otherwise, for the purpose of:

- (i) obtaining from any person any money, merchandise, property, or other thing of value; or
- (ii) paying for any service, wages, salary, or rent.

(c) "Mailed" means the day that a notice is properly deposited in the United States mail.

(2) (a) An issuer of a check is liable to the holder of the check if:

- (i) the check:
 - (A) is not honored upon presentment; and
 - (B) is marked "refer to maker";
- (ii) the account upon which the check is made or drawn:
 - (A) does not exist;
 - (B) has been closed; or
 - (C) does not have sufficient funds or sufficient credit for payment in full of the check; or
- (iii) (A) the check is issued in partial or complete fulfillment of a valid and legally binding obligation; and
- (B) the issuer stops payment on the check with the intent to:
 - (I) fraudulently defeat a possessory lien; or
 - (II) otherwise defraud the holder of the check.

(b) If an issuer of a check is liable under Subsection (2)(a), the issuer is liable for:

- (i) the check amount; and
- (ii) a service charge of \$20.

(3) (a) The holder of a check that has been dishonored may:

- (i) give written or oral notice of dishonor to the issuer of the check; and
- (ii) waive all or part of the service charge imposed under Subsection (2)(b).

(b) Notwithstanding Subsection (2)(b), a holder of a check that has been dishonored may not collect and the issuer is not liable for the service charge imposed under Subsection (2)(b) if:

- (i) the holder redeposits the check; and
- (ii) that check is honored.

(4) If the issuer does not pay the amount owed under Subsection (2)(b) within 15 calendar days from the day on which the notice required under Subsection (5) is mailed, the issuer is liable for:

- (a) the amount owed under Subsection (2)(b); and
- (b) collection costs not to exceed \$20.

(5) (a) A holder shall provide written notice to an issuer before:

(i) charging collection costs under Subsection (4) in addition to the amount owed under Subsection (2)(b);
or

(ii) filing an action based upon this section.

(b) The written notice required under Subsection (5)(a) shall notify the issuer of the dishonored check that:

(i) if the amount owed under Subsection (2)(b) is not paid within 15 calendar days from the day on which the notice is mailed, the issuer is liable for:

- (A) the amount owed under Subsection (2)(b); and
- (B) collection costs under Subsection (4); and

(ii) the holder may file civil action if the issuer does not pay to the holder the amount owed under Subsection (4) within 30 calendar days from the day on which the notice is mailed.

(6) (a) If the issuer has not paid the holder the amounts owed under Subsection (4) within 30 calendar days from the day on which the notice required by Subsection (5) is mailed, the holder may offer to not file civil action under this section if the issuer pays the holder:

- (i) the amount owed under Subsection (2)(b);
- (ii) the collection costs under Subsection (4);
- (iii) an amount that:
 - (A) is equal to the greater of:
 - (I) \$50; or
 - (II) triple the check amount; and
 - (B) does not exceed the check amount plus \$250; and

(iv) if the holder retains an attorney to recover on the dishonored check, reasonable attorney's fees not to exceed \$50.

(b) (i) Notwithstanding Subsection (6)(a), all amounts charged or collected under Subsection (6)(a)(iii) shall be paid to and be the property of the original payee of the check.

(ii) A person who is not the original payee may not retain any amounts charged or collected under Subsection (6)(a)(iii).

(iii) The original payee of a check may not contract for a person to retain any amounts charged or collected under Subsection (6)(a)(iii).

(7) (a) A civil action may not be filed under this section unless the issuer fails to pay the amounts owed:

(i) under Subsection (4); and

(ii) within 30 calendar days from the day on which the notice required by Subsection (5) is mailed.

(b) Subject to Subsection (7)(c) and (d), in a civil action the issuer of the check is liable to the holder for:

(i) the amount owed under Subsection (2)(b);

(ii) the collection costs under Subsection (4);

(iii) interest;

(iv) court costs;

(v) reasonable attorneys' fees; and

(vi) damages:

(A) equal to the greater of:

(I) \$100; or

(II) triple the check amount; and

(B) not to exceed the check amount plus \$500.

(c) If an issuer is held liable under Subsection (7)(b), notwithstanding Subsection (7)(b), a court may waive any amount owed under Subsections (7)(b)(iii) through (vi) upon a finding of good cause.

(d) If a holder of a check violates this section by filing a civil action under this section before 31 calendar days from the day on which the notice required by Subsection (5) is mailed, an issuer may not be held liable for an amount in excess of the check amount.

(e) (i) Notwithstanding Subsection (7)(b), all amounts charged or collected under Subsection (7)(b)(vi) shall be paid to and be the property of the original payee of the check.

(ii) A person who is not the original payee may not retain any amounts charged or collected under Subsection (7)(b)(vi).

(iii) The original payee of a check may not contract for a person to retain any amounts charged or collected under Subsection (7)(b)(vi).

(8) This section may not be construed to prohibit the holder of the check from seeking relief under any other applicable statute or cause of action.

(9) (a) Notwithstanding the other provisions of this section, a holder of a check is exempt from this section if:

(i) the holder:

(A) is a depository institution; or

(B) a person that receives a payment on behalf of a depository institution;

(ii) the check is a payment on a loan that originated at the depository institution that:

(A) is the holder; or

(B) on behalf of which the holder received the payment; and

(iii) the loan contract states a specific service charge for dishonor.

(b) A holder exempt under Subsection (9)(a) may contract with an issuer for the collection of fees or charges for the dishonor of a check.

VERMONT

Undetermined.

VIRGINIA

§ 8.01-27.1. Additional recovery in certain civil actions concerning checks

A. In any civil claim or action made or brought against the drawer of a check, draft or order, payment of which has been refused by the drawee depository because of lack of funds in or credit with such drawee depository, the holder or his agent shall be entitled to claim, in addition to the face amount of the check (i) legal interest from the date of the check, (ii) the protest or bad check return fee, if any, charged to the holder by his bank or other depository, (iii) a processing charge of \$35, and (iv) reasonable attorney's fees if awarded by the court.

B. Any holder of a check, draft or order, payment of which has been refused by the drawee for insufficient funds or credit, who charges the drawer amounts in excess of those authorized in subsection A on account of payment being so refused shall, upon demand, be liable to the drawer for the lesser of (i) \$35 plus the excess of the authorized amount or (ii) twice the amount charged in excess of the authorized amount.

WASHINGTON

62A.3-515. Checks dishonored by nonacceptance or nonpayment; liability for interest; rate; collection costs and attorneys' fees; satisfaction of claim

(a) If a check as defined in RCW 62A.3-104 is dishonored by nonacceptance or nonpayment, the payee or person entitled to enforce the check under RCW 62A.3-301 may collect a reasonable handling fee for each instrument. If the check is not paid within fifteen days and after the person entitled to enforce the check or the person's agent sends a notice of dishonor as provided by RCW 62A.3-520 to the drawer at the drawer's last known address, and if the instrument does not provide for the payment of interest or collection costs and attorneys' fees, the drawer of the instrument is liable for payment of interest at the rate of twelve percent per annum from the date of dishonor, and cost of collection not to exceed forty dollars or the face amount of the check, whichever is less, payable to the person entitled to enforce the check. In addition, in the event of court action on the check, the court, after notice and the expiration of the fifteen days, shall award reasonable attorneys' fees, and three times the face amount of the check or three hundred dollars, whichever is less, as part of the damages payable to the person enforcing the check. This section does not apply to an instrument that is dishonored by reason of a justifiable stop payment order.

(b)(1) Subsequent to the commencement of an action on the check (subsection (a)) but prior to the hearing, the defendant may tender to the plaintiff as satisfaction of the claim, an amount of money equal to the face amount of the check, a reasonable handling fee, accrued interest, collection costs equal to the face amount of the check not to exceed forty dollars, and the incurred court costs, service costs, and statutory attorneys' fees.

(2) Nothing in this section precludes the right to commence action in a court under chapter 12.40 RCW for small claims.

WEST VIRGINIA

§ 61-3-39e. Notice of dishonor by payee; service charge

The payee or holder of a check, draft or order which has been dishonored because of insufficient funds or credit may send notice thereof to the drawer of the check, draft or order. The payee or holder of any dishonored check may impose a fee of up to twenty-five dollars a worthless check. This fee may not be imposed or collected after a complaint for warrant has been delivered to magistrate court. No payee or holder of a check, draft or order which has been dishonored because of insufficient funds or credit shall incur any civil or criminal liability for the sending of a notice substantially in the form provided herein, other provisions of law notwithstanding. The form of the notice shall be substantially as follows:

"You are hereby notified that a check, number, issued by you on (date of check), drawn upon (name of bank), and payable to %Y(17) 27, has been dishonored. Pursuant to West Virginia law, you have ten days from the date of this notice to tender payment of the full amount of the check plus a fee of \$..... (not to exceed twenty-five dollars a worthless check) to the undersigned at You are further notified that in the event the above amount is timely paid in full you will not be subject to legal proceedings, civil or criminal.

Dated, 20.....

.....
(Signed)."

The provisions of this section do not authorize the making of any other written or oral threats of prosecution to enforce or enhance the collection or honoring of the dishonored check, draft or order.

The holder or payee of any check, draft or order shall relinquish the check, draft or order to the maker upon tender of the full amount due at any time before a complaint for warrant has been presented to magistrate court. In the event complaint for warrant has been presented to magistrate court, payment may be made only through the court and any holder or payee unlawfully accepting payment after that time shall be liable for all costs which may be imposed by the magistrate court in the matter, including all costs which may have accrued by the time the magistrate court is notified of the payment.

WISCONSIN

403.414. Obligation of drawer

(1) This section does not apply to cashier's checks or other drafts drawn on the drawer.

(2) If an unaccepted draft is dishonored, the drawer is obliged to pay the draft according to its terms at the time that it was issued or, if not issued, at the time that it first came into possession of a holder, or if the drawer signed an incomplete instrument, according to its terms when completed, to the extent stated in ss. 403.115 and 403.407. The obligation is owed to a person entitled to enforce the draft or to an endorser who paid the draft under s. 403.415.

(3) If a draft is accepted by a bank, the drawer is discharged, regardless of when or by whom acceptance was obtained.

(4) If a draft is accepted and the acceptor is not a bank, the obligation of the drawer to pay the draft if the draft is dishonored by the acceptor is the same as the obligation of an endorser under s. 403.415(1) and (3).

(5) If a draft states that it is drawn "without recourse" or otherwise disclaims liability of the drawer to pay the draft, the drawer is not liable under sub. (2) to pay the draft if the draft is not a check. A disclaimer of the liability stated in sub. (2) is not effective if the draft is a check.

(6) If a check is not presented for payment or given to a depository bank for collection within 30 days after its date, the drawee suspends payments after expiration of the 30-day period without paying the check, and because of the suspension of payments, the drawer is deprived of funds maintained with the drawee to cover payment of the

check, the drawer, to the extent deprived of funds, may discharge its obligation to pay the check by assigning to the person entitled to enforce the check the rights of the drawer against the drawee with respect to the funds.

(7) A person who issues a check or other draft that is not honored upon presentment, because the drawer does not have an account with the drawee or because the drawer does not have sufficient funds in his or her account or sufficient credit with the drawee, is liable for all reasonable costs and expenses in connection with the collection of the amount for which the check or draft was written, except recovery is not permitted under this section if a person licensed under s. 138.09 or any other person collected or could have collected a charge for that check or other draft under s. 422.202 (1) (d) or (2m).

WYOMING

§ 1-1-115 Civil liability for unpaid checks.

(a) Any person who issues a check which is not paid because the check has been dishonored for any reason has thirty (30) days following the date of a written demand mailed to the drawer of the check by United States postal service certificate of mailing at the address shown on the check or his last known address or personally served pursuant to the Wyoming Rules of Civil Procedure, to pay to the holder of the check the amount of the check and a collection fee not to exceed thirty dollars (\$30.00). The demand shall state that the drawer is required to pay the value of the check and the collection fee demanded and shall state the collection fee provided for in this section.

(b) Any person who fails to pay the amount of the check and the collection fee as set forth in subsection (a) of this section within thirty (30) days following the date of a written demand, mailed to or served on the drawer in accordance with subsection (a) of this section, is liable to the holder of the check for three (3) times the amount of the check, but in no case less than one hundred dollars (\$100.00), a collection fee of thirty dollars (\$30.00), and court costs.

(c) In extraordinary cases, including cases in which the court determines that the party who wrote the check has raised dilatory or bad faith defenses, the court may award the prevailing party reasonable attorney fees.

(d) Nothing in this section shall prevent the criminal prosecution of the person who issues the check. However, any payment made by the defendant to a victim pursuant to an order for restitution entered in a criminal case pursuant to W.S. 7-9-101 through 7-9-112 or 6-3-704(b), shall be set off against any judgment in favor of the victim in a civil action brought under this section arising out of the same facts or event.

(e) A cause of action under this section may be brought in small claims court, if the amount of the demand does not exceed the jurisdiction of that court, or in any other appropriate court.

(f) As used in this section, "check," "drawee," "drawer" and "issue" have the same meaning as defined in W.S. 6-3-701.

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SB

306

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 2/6/04

FURTHER: Finance

DATE of 5-Day Notice: _____
 in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: _____

Labor and Commerce Committee considered SENATE BILL NO. 306

SB 306 NATUROPATHIC MEDICINE

An Act relating to the practice of naturopathic medicine; and providing for an effective date."

Committee recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			X	
<i>Ralph Seebur</i>	✓			
<i>[Signature]</i>			X	
CHAIR: <i>[Signature]</i>			✓	



Alaska State Legislature

Please enter into the record my testimony to the Senate Labor & Commerce
committee name

Committee on SB 306, dated 2-26-04
bill # / subject public hearing date

I am very much in favor of the passing of this bill, as I indicated in my partial testimony:

I have used allopathic, as well as Naturopathy and other alternative types of health care for over 45 years; in California, Oregon + Alaska.

I would like to have the ability to have the person I have carefully chosen to be my family's primary care physician be just that! — + not have to go through a medical Dr. for services + prescriptions that my naturopath + as qualified to do or prescribe.

Signed: [Signature]
Testifier

self
Representing (optional)

PO Box 650, Kaslof AK 99610
Address

907 260-4618
Phone number



Alaska State Legislature

Please enter into the record my testimony to the Senate Labor & Commerce
committee name

Committee on SB 306 Naturopathic Medicine, dated 2-26-04
bill # / subject public hearing date

I am writing in support of SB 306 concerning Naturopathic physicians. It is my opinion that a Naturopathic doctor should be allowed to perform minor surgery and prescribe drugs with a license. My family's primary physician is Dr. Patrick Huffman, a naturopathic physician practicing in both Soldotna and Homer. I have recommended him to many friends and other members of my extended family. The health insurance my husband and I have does not cover that care, so we pay out-of-pocket for most our visits to the doctor. We consider that a necessary expense.

People who are interested in naturopathic care not only want their symptoms removed, they want to try and find out the root cause of their problems and prevent any problems in the future. Traditional medicine is very weak in the area of cause and prevention. For the Legislature to spend time and resources to attract ASMA approved physicians to Alaska will not help those primarily interested in preventative medicine. I want to see the Legislature support and encourage those in the preventative field and continue to ensure health care choices for all.

The concern about allowing naturopathic doctors to prescribe drugs when they commonly stock and sell naturopathic medicines puzzles me. Those seem like concerns of people who are not familiar with preventative medicine practitioners. The whole purpose for natural medicines are to stay away from prescription drugs whenever possible. It's usually possible to do that, but not always. When I had an infection close to my eye I had to leave my naturopath's office and make another appointment to get antibiotics, as per the naturopath's recommendation. The herbal medications that are available for sale in the office are there for the convenience of the patients, not the doctor's profit. The medications are not harmless, but neither are they addictive or harmful to the body when taken as directed—unlike most prescription drugs which both help and harm (e.g. "side effects").

Thank you for your consideration.

Signed: Karen Susan Encelowski
Testifier

Representing (optional)

PO Box 66 Ninilchik, AK 99639
Address

907-567-3925
Phone number



State Of Alaska
Legislative Affairs Agency
Kenai LIO
145 Main St Lp, Ste 217
Kenai, AK 99611
907-283-2030

Date: 2-26-04

Please accept the enclosed original(s) of written testimony for
the SLC teleconference hearing that was
scheduled on 2-26-04.

A copy of this testimony was transmitted to your committee via
fax on 2-26-04.

Thank You,

M. B. Byrne



Alaska Association of Naturopathic Physicians, Inc.

Dedicated to the preservation of quality naturopathic medicine for all Alaskans.

18

February 25, 2004

Senator Lyda Green, Co-Chair Finance
Alaska State Senate
Capitol Building
Juneau, Alaska 99811

Dear Senator Green,

On behalf of the thousands of naturopathy patients that we service in the Eagle River, Mat-Su and South-central Alaska, I would like to thank you for your co-sponsorship of SB306. Your time and attention to this important issue is extremely appreciated.

Thank you for allowing us to respond to the concerns raised to you by Cathy Giessel, MS, FNP-CS. In addition to the answers to her questions noted below, we have provided you with an education and training comparison of all health care professions in Alaska.

Naturopathic medical colleges are four-year postgraduate schools with admissions requirements comparable to those of conventional medical schools. To apply to naturopathic medical school an undergraduate with premedical emphasis is required. A Doctorate in Naturopathic Medicine requires four years of graduate level study in the medical sciences: anatomy, biochemistry, cardiology, clinical and physical diagnosis, dermatology, gynecology, immunology, lab diagnosis, microbiology, minor surgery, neurology, obstetrics, pathology, pediatrics, pharmacology, physiology, radiology, as well as other clinical sciences.

In addition to basic and clinical sciences, NDs also receive training in naturopathic therapeutics including; botanical medicine, Chinese medicine and acupuncture, homeopathy, hydrotherapy, natural childbirth, naturopathic manipulation, psychology and counseling, therapeutic nutrition, and other therapies. **Because coursework in natural therapeutics is added to a standard medical curriculum, naturopathic doctors receive significantly more hours of classroom education in these areas than the graduates of many leading medical schools, including Yale, Stanford and Johns Hopkins schools.** This becomes obvious upon examination of the comparison sheets that are enclosed.

Thank you again for allowing us the opportunity to provide a factual response to these questions and to further educate other health care professions in Alaska about the practice of naturopathic medicine. We look forward to working together with all health care professionals to ensure the public safety, welfare, and affordability of quality complementary care for all Alaskans.

Sincerely,

Daniel Young, ND, LAc.

Daniel J. Young ND, LAc.
Alaska Association of Naturopathic Physicians, Inc.
Legislative Task Force

Enc. Comparing Medical Professions in Alaska

Comparison of Educational & Pharmacology Training Allopathic (MD's) and Naturopathic (ND's)

Just as biochemistry is biochemistry, pharmacology is pharmacology. Pharmacology, like biochemistry, is a basic science -- usually taught in the first two years of medical school. Pharmacology training for naturopathic doctors is fundamentally the same as the training other primary care doctors receive.

Table 1 (shown below) compares the total hours required of three medical disciplines in the basic sciences, including pharmacology.

Table 2 compares the total hours of clinical clerkships and therapeutics required by six different medical colleges, three naturopathic medical schools and three allopathic (MD) medical schools.

In the 13 states where naturopathic physicians have prescription rights

- ⇒ Naturopathic physicians must graduate from a CNME-approved naturopathic medical college (Federally Approved)
- ⇒ Pass the pharmacology exam as administered by NPLEX (Naturopathic Physicians Licensing Examination) (Federally Approved)
- ⇒ Be licensed by the state where they practice
- ⇒ Obtain a Drug Enforcement Agency (DEA) registration number.
- ⇒ Remain current with continuing education required by the state

With these stringent requirements met, NDs in these states SAFELY prescribe, or administer prescription or controlled substances WHEN THEY NEED TO.

To further assure public safety in Alaska, our regulations will require a mandatory, 60-hour course taught by pharmacists (R.Ph.) and by Pharm.D.s (pharmacists who are also MDs) which focuses on pharmacotherapeutics (the therapeutic use of drugs). This will ensure that naturopathic doctors who graduated long ago will have their knowledge brought up to current provisions.

Table 1. Comparison of Average Number of Hours in Basic Science Instruction

	Allopathic ¹	Osteopathic ²	Naturopathic ³
Anatomy (gross and micro)	380	362	350
Physiology	125	126	250
Biochemistry	109	103	125
Pharmacology	114	108	100
Pathology	166	152	125
Microbiology/Immunology	185	125	175

Sources:

¹Ref. Associatic of American Medical Colleges Curriculum Directory, 1996-1997.

²Ref. 1996 Statistical Report. Chevy Chase, MD: American Association of Colleges of Osteopathic Medicine.

³Ref. State of Oregon. Oregon Administrative Rules, Oregon Board of Naturopathic Examiners, Chapter 850. Salem, OR.

Note: Allopathic (MD); Osteopathic (DO); Naturopathic (ND)

Used with Permission; *Common Paths in Medical Education*, Clyde B. Jensen, Ph.D., Alternative and Complementary Therapies; August 1997

Table 2: Comparison of major naturopathic and allopathic medical school clinical training

Clerkships and Clinical Therapeutics	National (ND)	Bastyr (ND)	Southwest (ND)	John Hopkins (MD)	Yale (MD)	Stanford (MD)
Total Hours	3120	2833	3050	3391	2891	3897

Sources:

American Association of American Medical Colleges, Curriculum director / (1996-1997)

National College of Naturopathic Medicine catalogs (1995-1997) *

Bastyr University of Naturopathic Medicine and Health Sciences catalogs (1996-98)

Southwest College of Naturopathic Medicine and Health Sciences catalogs (1996 - 1998)

- natural therapeutics -

univ of Bridgeport

Years
3-4

residencies

Accreditation

Appendix C
 A Comparison of Licensed Medical Professions
 In The State of Alaska

Licensed Practical Nurse	9 months to 2 year practical nursing program, the 1 year program being the most common
Registered Nurse	One of the following: <ul style="list-style-type: none"> • A 2-yr. Associate's degree, or • A 3-yr. Diploma program, (hospital based), or • A 3-yr. Bachelor's degree in nursing, or • A 4-yr. Bachelor's degree in another discipline and a 3-yr. Master's degree in nursing, or • A 4-yr. Bachelor's degree in another discipline and a 4-yr. Nursing Doctorate program
Advanced Registered Nurse Practitioner	In addition to holding a license as a Registered Nurse, an A.R.N.P. completes one of the following: <ul style="list-style-type: none"> • A 9 month to 2 year certificate program in specialty, or • A 2 year Master's degree certified in specialty
Physician's Assistant (PA)	4-yr. Bachelor's degree and 18 to 24 months master's degree (must work under the supervision of a physician)
Allopathic Physician (MD)	4-yr. Bachelor's degree in pre-medical and 2 to 5 years of post-graduate training in allopathic medical school; internship, residency
Naturopathic Physician (ND)	4-yr Bachelor's degree with pre-medical/science emphasis and 4 to 5 years post-graduate training in naturopathic medical school; externship required for graduation; residency options becoming more available

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

February 22, 2004

Senator Con Bunde
Chair, Labor and Commerce
Room 506, State Capitol
Juneau, AK 99801-1182

Re: SB 306

Dear Senator Bunde,

I am writing to oppose SB 306 as it is written.

SB 306 fails to address these issues in expanding privileges for naturopathic practitioners:

1. Naturopathic practitioners are not prepared as conventional healthcare providers, and are not adequately trained in use of conventional pharmaceuticals.
2. There is no regulatory oversight of naturopathic practitioners to ensure public safety.

Definition of naturopathy

Naturopathic medicine is, by definition, the administration of alternative therapies. This does not include conventional approaches that incorporate the use of pharmaceutical medications. This is clearly stated in the bill Sec. 12 referring to AS 08.45.200(3)

This group of health care providers made a conscious choice, when making their career selection, to train in ALTERNATIVE therapies rather than conventional health care methods. In making this choice, they also elected to focus their education on the use of botanical therapeutic approaches.

SB 306 provides that the foundational education be in the field of naturopathic medicine. Naturopaths are experts in human physiology and botanical science. They are not educated in the field of pharmaceuticals used in conventional medicine. The bill you are proposing would give them full authority to utilize pharmaceutical agents, without documentation of adequate training, nor continued education in this rapidly changing field. You are authorizing them to prescribe controlled substances such as hydrocodone and morphine, without any of the oversight that ensures safe practice of conventional medicine by physicians, nurse and other healthcare practitioners.

Public safety

SB 306 assumes that the Division of Occupational Licensing has the staffing and expertise to provide oversight and regulation of these practitioners. The regulatory boards for conventional healthcare providers adopt regulations and provide oversight governing the safe practice of healthcare professions in Alaska. They evaluate

SB306, page 2

educational programs, make final licensing decisions and takes disciplinary action against people who violate the licensing laws. There is currently no regulatory Board for Naturopathic practitioners (see Centralized Licensing Statutes, Chapter 01, Sec 08.01.075). Even veterinarians have a regulatory board that oversees the safe practice of that profession.

The continuing education requirements provided in SB 306 are minimal. Sec. 08.45.110 states that the instruction in pharmacology or pharmacotherapeutics must be presented by a licensed pharmacist or another professional approved by the division. There is no provision for standards regarding the content or qualifications of the presenter. With this guideline, the presenter could be another naturopath discussing herbal therapies. Other healthcare professions must attend continuing education offerings that meet specific standards of quality determined by their regulatory board.

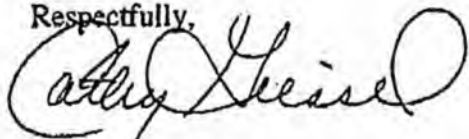
If Naturopathic Physicians now wish to practice as providers of conventional medical therapies, they need to be regulated by the Board of Medicine, as are Osteopaths, Paramedics, conventional Physicians, Physician Assistants and Podiatrists.

Summary

SB 306 lacks provisions to oversee the safety of the public in expanding the practice parameters for this group of practitioners who wish to expand their practice to include conventional medical practice. It provides the unrestricted practice of conventional medical therapies by alternative healthcare practitioners. Regulatory provisions must be made before this legislation will serve the best interests of the people of Alaska.

I respectfully request that these concerns be addressed and the entire issue be carefully considered before action is taken to allow naturopathic physicians to practice with all the privileges of a conventional practitioner.

Respectfully,



Cathy Giessel, MS, FNP-CS
12701 Ridgewood Rd
Anchorage, AK 99516
907 345 5470
cgiessel@mac.com

Alaska Board of Nursing
Alaska Nurse Practitioner Association Legislative Affairs Representative
American Academy of Nurse Practitioners, State Representative
Anchorage Health and Human Services Commission

February 14, 2004

FEB 23 2004

Senator Ralph Seekins
Alaska State Capitol Building
Juneau, AK 99801-1182

ATTN: Senator Seekins (Bill #306)

Dear Senator Seekins,

I am writing this letter to support the legislative Bill #306, an "Act relating to Naturopathic Physicians." As a compounding pharmacist practicing in Alaska, I have had the opportunity to refer patients and interact with Dr. Scott Luper N.D. of the Alaska Center for Natural Medicine in Fairbanks, as well as others on several occasions. I have found them to be professional, knowledgeable, and very competent in the care of our mutual patients. Additionally, these patients not only have demonstrated satisfaction with the level of care provided but clearly have benefited from this care. As a compounding pharmacist I see patients every day that would benefit greatly from the expanded scope of practice this bill would provide. It makes no sense to continue to limit their scope of practice and deny Alaskans the full benefit that can be derived through passage of the present legislation. Many other states have already come to this realization, including our nearest neighbor Washington State. Washington has for a long time now provided this expanded practice to their citizens, with great success and safety.

I support legislation that allows naturopathic physicians to practice commensurate with their education, and to the full scope of their training. Such legislation offers Alaskans freedom of choice in their healthcare, and improved access to effective and safe complementary medical practices. This can only benefit the healthcare community in Alaska. Please support this Bill.

If you would like to discuss this further with me, please contact me at:

907-488-8555 (work)
907-488-8556 (fax)
nprxlab@hotmail.com (email)

Sincerely,

A handwritten signature in black ink, appearing to read "Richard C. Holm R.Ph.", written over a horizontal line.

Richard C. Holm, R.Ph., F.A.C.A., F.I.A.C.P., F.A.Ph.A.
North Pole Prescription Laboratory Inc.
167 S. Santa Claus Lane
North Pole, AK 99705
Phone: 488-8555
Fax: 488-8556



Craig H. Mullett, D.D.S.

GENERAL DENTISTRY
ALASKAN FAMILY DENTAL CENTER, LLC
281 NORTH MAIN STREET
SUITE 201
WASILLA, ALASKA 99654

February 14, 2004

Senator Ralph Seekins
Representative Jim Holm
Alaska State Capital Building
Juneau, Alaska 99801-1182

ATTN: Senator Seekins, Representative Holm.

Dear Sir,

I am writing this letter to support the legislative bill an "Act relating to naturopathic physicians." As a dentist practicing in the state of Alaska I have had the opportunity to share patients with, and interact with Drs. Dan and Madeleine Young of Eagle River's Naturopathic Medical Center Inc. on several occasions. I have found them to be professional, knowledgeable, and competent in the care of our shared patients. In addition, the patients that I have shared with the Young's have demonstrated satisfaction with the level of care provided. Dr. Dan Young has treated me personally, as a patient, with excellent results.

I support legislation that allows naturopathic physicians to practice commensurate with their education, and to the full scope of their training. Such legislation offers Alaskans freedom of choice in their healthcare, and improved access to effective and safe complementary medical practices. This can only benefit the healthcare community in Alaska. Please support this Bill.

If you would like to discuss this further with me, please contact me at Alaskan Family Dental Center LLC, 281 North Main Street, Suite 201, Wasilla, Alaska, 99654.

(907) 376-0452

Sincerely,

Craig H. Mullett DDS



Alaska Center for Natural Medicine

104 Kutter Road • Fairbanks, Alaska 99701 • (907) 452-3600

FEB 23 2004

Senator Ralph Seekins
Representative Jim Holm
Alaska State Capital Building
Juneau, Alaska 99801-1182

Mary-Beth Gardner, FNP, CNM

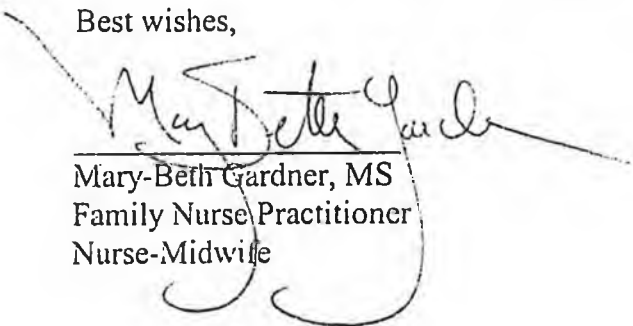
February 16, 2004

The purpose of this letter is to support legislation that grants prescriptive authority to naturopathic physicians.

I have practiced as an advanced nurse practitioner for 18 years – 15 years in Alaska. Much evolution in health care delivery has occurred during this time. State of the Art health care practices in the United States now incorporate allopathic (or typical western medicine) and naturopathic treatments for the best patient outcomes. Naturopaths are trained in the application of these two methods. Their ability to practice is hindered by restriction of prescriptive privileges. And, Alaskans' access to this skillful blending of healthcare is limited while prescriptive privileges are withheld.

Please call me if I can provide further information.

Best wishes,


Mary-Beth Gardner, MS
Family Nurse Practitioner
Nurse-Midwife

Sandra C. Denton, M.D.
& Associates



Alaska Alternative Medicine Clinic, L.L.C.
Your choice for health.

2/16/2004

Senator Ralph Seekins
State Capitol Building, room 125
Juneau, AK 99801-1182

Dear Senator Seekins,

As a medical doctor who has specialized in alternative medicine since 1985, I have had numerous occasions to work with naturopathic physicians in Alaska and have worked closely with them as part of our team of providers at my office.

It is unrealistic to expect the State of Alaska's Department of Occupational Licensing to regulate the standards of health care providers such as naturopathic physicians without consultation with their professional association. Physicians are in a much better position to assess the conduct of their peers and hold them to high standards of quality, ethics and professionalism. Even the most enlightened bureaucrat would not possess knowledge of what is customary in naturopathic medical practice and what their training allows them to do safely.

I have watched the naturopathic profession grow in the past 18 years, the demand for a balance between conventional and natural medicine from patients is best assured if the scope of practice of naturopathic physicians is commensurate with their level of training. When patients have to make an appointment to see another provider to obtain a prescription medication when diet, exercise, botanical and other natural medicines are insufficient, it creates a barrier to care that does not serve the health care needs of the patient, especially in remote areas of the state where any kind of licensed health care provider is difficult to come by. Most other states that have licensure for naturopathic physicians have prescription writing authority tied to continuing education requirements in order to protect the public and provide access to comprehensive treatment. Alaska should do the same.

Thank-you for your attention in this important piece of legislation.

Yours in health,

Sandra C. Denton, MD
Medical Director

3333 Denali Street, Suite 100 • Anchorage, Alaska 99503
Phone (907) 563-6200 • Fax (907) 561-4933
Email: aamc@myexcel.com

Gene Meiergerd RN, LMT
Licensed Massage Therapist

Movement Toward Health

February 15, 2004

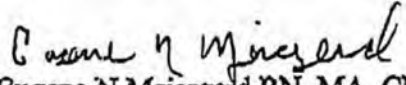
Senator Ralph Seekins
Representative Jim Holm
Alaska State Capitol Building
Juneau, Alaska 99801-1182

ATTN: Senator Seekins
Representative Holm

I am writing this letter to support the legislative bill an "Act relating to naturopathic physicians". As a practicing RN for over 25 years and a certified therapeutic massage therapist I have had the opportunity to interact with Dr. Dan Young on several occasions. I have found him to be professional, knowledgeable and competent as well as going out of his way to see that patients receive the best possible care.

I support legislation that allows naturopathic physicians to practice in accord with their education, and the full scope of their training. This legislation offers Alaskans freedom of choice in their healthcare, and improved access to effective and safe complementary medical practices. This can only benefit the healthcare community in this great state of Alaska. Please support this bill.

Sincerely,


Eugene N Meiergerd RN, MA, CMT