

SUBJECT: Creating a state-jail felony for passing multiple bad checks

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Hinojosa, Dunnam, Green, Keel, Nixon, Smith, Talton, Wise
0 nays
1 absent — Garcia

WITNESSES: For — John S. Boone, Harris County District Attorney; Dennis Cox
Against — None
On — Bruce Isaacks

BACKGROUND: Theft by check is defined as obtaining goods or services, with the intent to deprive the owner of the property, by issuing a check or similar sight order when the issuer did not have sufficient funds on deposit with the bank. Penalties for theft by check vary depending on the value of the property obtained by a single bad check.

DIGEST: HB 1357 would make it a state jail felony, punishable by 180 days to two years in a state jail and an optional fine of up to \$10,000, to commit theft of property or theft of service by passing ten bad checks within 30 days, regardless of the value of the stolen property. The state-jail felony would not preclude greater punishment based on the total amount stolen.

The bill would take effect on September 1, 1999, and would apply only to offense committed on or after the effective date.

SUPPORTERS SAY: HB 1357 would help merchants and banks fight check fraud. Merchants lose millions of dollars every year to individuals who fraudulently obtain goods or services by writing bad checks, while banks waste time and money processing the fraudulent checks. This illegal practice drives costs higher for all consumers.

The higher the value of property stolen with bad checks, the stiffer the penalty. However, under current law, a person could write multiple bad checks for small amounts and face little or no penalty. This bill would provide appropriate penalties for hot check writers who commit multiple and habitual offenses.

The statutory definition of theft requires that the person knowingly take something from someone else. A person who mistakenly wrote checks on an account with insufficient funds would not be punished.

**OPPONENTS
SAY:**

A state-jail sentence is too great a penalty for someone who might have written a series of bad checks adding up to a small total amount of money. Jail sentences should be reserved for people stealing large amounts of money.

HB 1357 could penalize people who wrote numerous checks simply without realizing their accounts had insufficient funds at the time. For example, a person might pay a dozen bills at the end of the month, only to find out later that the checking account was overdrawn. These people should not face a state-jail felony for making innocent mistakes.