

BILL ANALYSIS

Senate Research Center

H.B. 3377
By: Hinojosa (Lucio)
Criminal Justice
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Engrossed

DIGEST

Today it is not uncommon for a product to be delivered to the purchaser before actual receipt of the payment. In the event that a check is issued within a few days as payment for the product and the check is not honored by the financial institution for any reason, Section 31.06, Penal Code, regarding presumption of theft by check, would ordinarily be applicable. The courts, however, have interpreted this section of the Penal Code to require that the exchange of property and issuance of check be simultaneous. This bill will provide regulations regarding prima facie evidence of the offense of theft by check.

PURPOSE

As proposed, H.B. 3377 provides regulations regarding prima facie evidence of the offense of theft by check.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 31.06(a), Penal Code, to provide that if the actor obtained property by issuing or passing a check or similar sight order for the payment of money within seven days of when the actor took possession of the property, when the issuer did not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check or order as well as all other checks or orders then outstanding, it is prima facie evidence of the actor's intent to deprive the owner of property if certain conditions are met.

SECTION 2. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 3. Emergency clause.