



Merchant's Handbook for Collection of Bad Checks

DeKalb County Prosecuting Attorney
109 E Main
P.O. Box 248
Maysville, MO 64469

Introduction

Not all “bad” checks fall under the jurisdiction of the criminal courts. There are specific elements of the crime we must prove before we can begin prosecution. If you have any questions regarding the following information, please contact the DeKalb County Prosecuting Attorney’s Office at (816) 449-2279.

INTENT TO DEFRAUD: The issuance of the check must have caused you to give up something of value. It must not have been postdated or held for deposit. It must be marked “insufficient funds,” “refer to maker,” or “account closed” by the bank before you bring or send it to our office. “PAYMENTS STOPPED” is usually a civil matter, a dispute, perhaps, between you and the check writer and possibly a matter for civil action.

JURISDICTION: Before we can prosecute, we must first arrest the bad check writer or summons them to court. Without proper identification, making an arrest is difficult, and sometimes even impossible. It is essential to require a valid driver’s license at the time you accept the check. Note on the check the check writer’s license number, and date of birth. This is for the purpose of identification only.

It is also very important that the check be brought to our office as soon as practicable. Our efforts to successfully prosecute and collect often depend on how quickly we are able to make contact with the check writer.

Please be advised that bad check writers and forger sometimes know which merchants do not require identification and will frequent those stores in order to obtain cash or merchandise for resale or return. Protect your business and your customers by requesting identification when accepting a check.

When You Take a Check

1. *Look at the check!*

Does it have a low check number? This means a new account, and could mean trouble.

Some check as now printed with a coded number by the address block or just above the signature line. This tells when the account was opened, (i.e. 5-93 means the account was opened May of 1993). This can help you regardless of the check number, since many new accounts request beginning high check numbers from the banks. Often the check number itself will not indicate how old the account is.

Be sure to check the date that is written on the check. Post-dated checks (a check dated after the day it was passed) cannot be prosecuted. Do not take checks that are currently dated but which you are asked to “hold” until the next day. You are taking it at your own risk. We cannot prosecute if you have received a partial payment. Accepting a partial payment means that you have entered into an agreement with the check writer to let him/her pay off his/her debt in several payments or have agreed to accept less than the full face value of the check.

Please train your employees to check if any words or numerals on the check have been altered. Look for different handwriting, different colored ink, or any other suspicious differences.

2. *Compare the check with a valid driver's license of the person writing the check.*

Take the driver's license into your hand. If you do not take the driver's license into your hand you cannot determine if it is altered or counterfeit. Look at the picture on the driver's license. Make sure it looks like the person offering the check. Is the driver's license a current and valid one? Do not accept an expired license as valid identification. Please compare the signature on the check to the one of the driver's license.

3. Next, record the driver's license number and the date of birth of the check writer on the front of the check. The person who is accepting the check should put his or her initials on the check.

The driver's license number (or social security number) and the date of birth of the person writing the check are required by the DeKalb County Prosecuting Attorney's Office before criminal charges can be filed for passing a bad check. The person accepting the check should initial the check so the appropriate employee can be identified for court testimony. Please remember, however, we cannot help you unless you identify the bad check writer.

Since the driver's license is your source of identification, record the date of birth as printed on the license as well as the driver's license number. The back of the check is stamped during processing making essential information illegible so we ask that you record this information on the front of the check.

While date of birth and driver's license numbers are important in identifying the check writer, the more information you can provide, the better in trying to locate the bad check writer. Middle initial, place of employment, and current address are other helpful identifiers.

If you do not have the necessary identifying factors our ability to help you is limited to sending a 10 day warning letter. If your company procedures do not provide for this information to be noted on the front of the check, we urge you to incorporate this into your policies.

Living in a county that houses the "Crossroads of the Nation," can lead to out of state check writers. Accepting these checks is risky. Misdemeanor warrants are generally not extraditable across state lines.

If a check comes back from the bank marked "forgery" or "unauthorized signature" you must contact your local law enforcement agency and request to make out a report. The law enforcement agency will investigate and handle the case as they do any other criminal investigation and crime.

If a Check is Returned to You:

If you wish, you can contact the customer to see if he/she will make the check good.

If this doesn't work, or you want to bring the check directly to us, then fill out a Bad Check Complaint sheet for each bad check writer. If a husband and wife both have bad checks, make out a separate form for each person.

Bring or mail the completed form(s) and original check(s) to:

DeKalb County Prosecuting Attorney
PO Box 248
109 W Main Street
Maysville, MO 64469

We will send a 10 day letter to the bad check writer warning him/her that we intend to prosecute if he/she does not immediately contact our office and make payment on the bad check. We charge an administrative handling fee per check. This amount is dependent upon the face value of the check. We will only accept money order or cashier's check in payment of the bad check(s) and fee(s). When payment is received, it is sent to you as soon as possible.

If payment is not received, then the Prosecuting Attorney's Office will determine if the evidence is sufficient to file criminal charges.

PLEASE NOTE: YOU MUST **NOT** ACCEPT ANY RESTITUTION FROM THE BAD CHECK WRITER AFTER YOU HAVE SUBMITTED THE COMPLAINT TO OUR OFFICE. PLEASE INFORM THEM THEY MUST HANDLE IT WITH US AND BE SURE TO INFORM YOUR EMPLOYEES OF THIS.

We Do NOT Prosecute the Following Cases:

- Post-dated Checks
- Checks for which you have accepted partial payment
- Two-party checks
- Checks that have been held for deposit. An example of a "hold check" is one in which the merchant was told the check would be good later, but not at the time of the offering and to please hold it for deposit on a later date.
- Checks for payment on loans, checks given as security for a loan or a debt or payment on account.
- Bad check writers who cannot be identified in a court of law.
- The statute of limitations has expired. This is after one year for a misdemeanor check (under \$499.99) and after three years for a felony check (\$500 or more).

If Charges are Filed:

When we file a criminal complaint, a summons for a court appearance is delivered to the defendant. If they do not appear on the appointed date, a warrant is issued for their arrest. At this point our office must wait until the defendant is arrested.

It is unusual for check cases to be set for trial. In most cases, the defendant pleads guilty without testimony required by the witnesses. However, your signature on the complaint form tells us you can and will identify the bad check writer, under oath, in a court of law. In most cases our office will see a conviction and complete restitution to the victim.

When a repeat offender is involved, the prosecuting attorney may seek a jail sentence. If the defendant is incarcerated, time served in jail will sometimes affect the amount of restitution ordered by the court and collection of restitution may be delayed until the defendant is released from jail. (In rare cases, due to jail time served, restitution is not ordered).

Please remember the Prosecuting Attorney's Office will decide how the case is best prosecuting and the ultimate decision regarding the filed criminal case is determined by the judge.

We are Not a Collection Agency:

If you are unwilling to face the possibility that the bad check writer may be jailed and unable to make immediate restitution, then you should not seek prosecution of the bad check writer.

If our office is unable to prosecute the bad check, you will have the option of having the check returned to you so that you can pursue other means of collection.

Some Things Clerks Can Do to Protect Against No Account Checks:

Don't:

- Be afraid to ask about checks you are asked to accept. Beware of strangers.
- Cash 3rd party checks
- Cash checks for juveniles
- Accept bank counter checks
- Accept checks in which the endorsement varies from the person listed as the payee
- Accept checks for large amounts on weekends or holidays when the banks are closed
- Accept checks that are written in pencil or show signs of alternation
- Honor pre or post-dated checks
- Endorse a check for any person unless he is well known to you and even then think twice
- Leave blank checks of your check book lying around. Bank statements reveal your balance and canceled checks provide specimens of handwriting.

Beware:

- Of “cashier’s checks or money orders” – they are not always as they appear. Use as much caution as a personal check.
- Of out of state checks.

Refuse:

- To accept checks signed with a rubber stamp unless you personally know both maker and payee.
- To accept a check from anyone who has had a previous bad check.

Do:

- Display a sign, showing that you cooperate with the DeKalb County Prosecuting Attorney’s Office.
- Implement a photo or camera process for identification if you take a high volume of checks
- Use this manual as a training device for employees and have them review it periodically.
- Take checks only for the amount of the purchase.
- Ask for more than one form of identification and compare handwriting. It’s a good idea to have checks made out in your presence - driver’s license, social security cards, lodge cards, and letters of reference can easily be stolen or forged.

Last, but not least, **NEVER** be in a hurry to cash a check; look at it carefully. Don’t be rushed by an impatient customer.