

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Promote Personal Financial Responsibility by Allowing a Person To Make Good on Dishonored Checks Prior to the Imposition of Criminal Penalties

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 17-A MRSA §708, sub-§1, ¶A, as enacted by PL 2001, c. 383, §77 and affected by §156, is amended to read:

A. The person intentionally issues or negotiates a negotiable instrument knowing that it will not be honored by the maker or drawee. Violation of this paragraph is a Class E crime; or

Sec. 2. 17-A MRSA §708, sub-§1, ¶A-1 is enacted to read:

A-1. The person issues or negotiates a negotiable instrument that is not honored by the maker or drawee and the person does not pay the intended recipient of the negotiable instrument the full amount of the face value of the negotiable instrument, along with any fees charged because the negotiable instrument was not honored, within 30 days of receiving written notice sent by the intended recipient of the negotiable instrument by certified mail, return receipt requested. Violation of this paragraph is a Class E crime; or

Sec. 3. 17-A MRSA §708, sub-§1, ¶B, as amended by PL 2007, c. 476, §28, is further amended to read:

B. The person violates either paragraph A or paragraph A-1 and:

(1) The face value of the written instrument or the aggregate value of the instruments is more than \$10,000. Violation of this subparagraph is a Class B crime;

(2) The face value of the written instrument or the aggregate value of the instruments is more than \$1,000 but not more than \$10,000. Violation of this subparagraph is a Class C crime;

(3) The face value of the negotiable instrument is more than \$500 but not more than \$1,000. Violation of this subparagraph is a Class D crime; or

(4) At the time of negotiating a worthless instrument, the person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of this section; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft;

any violation of section 651; any violation of section 702 or 703; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime.

SUMMARY

This bill creates a category of the crime of negotiating a worthless instrument. If a person issues or negotiates a negotiable instrument that is not honored, and the intended recipient sends written notice that the instrument was not honored, the person commits a crime if the person does not pay the intended recipient the full amount of the face value of the negotiable instrument, plus fees, within 30 days of receiving the written notice. The notice must be sent by certified mail, return receipt requested. This eliminates the need to prove that the person knew that the negotiable instrument would not be honored at the time it was written.