



# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 1088

S.P. 321

In Senate, March 15, 2011

### An Act Regarding the Writing of Bad Checks

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Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

*Joseph G. Carleton Jr.*

JOSEPH G. CARLETON, JR.  
Secretary of the Senate

Presented by Senator MARTIN of Kennebec.

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

2 **Sec. 1. 17-A MRSA §708, sub-§2,** as amended by PL 2001, c. 383, §78 and  
3 affected by §156, is further amended to read:

4 **2.** Proof of the following gives rise to a permissible inference under the Maine  
5 Rules of Evidence, Rule 303 that the person issuing or negotiating the instrument knew  
6 that it would not be honored:

7 A. The drawer had no account with the drawee at the time the instrument was  
8 negotiated; ~~or~~

9 B. Payment was refused by the drawee for lack of funds upon presentment made  
10 within the time frame specified in Title 11, section 3-1304, and the drawer failed to  
11 honor the drawer's contract within 5 days after actual receipt of a notice of dishonor,  
12 as defined in Title 11, section 3-1503, ~~provided except~~ that this time limit is tolled  
13 during one subsequent representment of the negotiable instrument; or

14 C. The drawer refuses to tender payment in the amount of the instrument within 24  
15 hours of receipt of a notice under this paragraph mailed by certified or registered mail  
16 evidenced by return receipt at the address printed on the instrument or given at the  
17 time of issuance. The notice must be substantially as follows:

18 "You are hereby notified that the following instrument(s):

19 Number: ..... Date: ..... Amount: ..... Name of Bank: ..... drawn  
20 upon ..... and payable to ....., (has)(have) been dishonored.  
21 Pursuant to Maine law, the Maine Revised Statutes, Title 17-A, section 708, you have  
22 24 hours from receipt of this notice to tender payment of the total amount of the  
23 instrument(s) plus the applicable service charge(s) of \$.....(.....dollars and  
24 .....cents) and any fee charged to the holder of the instrument(s) by a bank or  
25 financial institution as a result of the instrument(s) not being honored, the total  
26 amount due being \$.....(.....dollars and.....cents). Unless this amount is paid  
27 in full to ..... within the specified time above, a presumption in law arises that you  
28 delivered the instrument(s) with the intent to defraud, and the dishonored  
29 instrument(s) and all other available information relating to this instrument may be  
30 submitted to the court for the issuance of a criminal warrant or citation or to the  
31 district attorney or Attorney General for criminal prosecution."

32 **SUMMARY**

33 This bill creates a rebuttable presumption of prima facie evidence that a drawer of a  
34 dishonored check knew it would be dishonored if the drawer does not pay the amount of  
35 the dishonored check and associated fees in full within 24 hours of receiving notice.