

I.C. § 35-43-5-5 Check deception

Sec. 5. (a) A person who knowingly or intentionally issues or delivers a check for the payment of or to acquire money or other property, knowing that it will not be paid or honored by the credit institution upon presentment in the usual course of business, commits check deception, a Class A misdemeanor. However, the offense is a Class D felony if the amount of the check is at least two thousand five hundred dollars (\$2,500) and the property acquired by the person was a motor vehicle.

(b) An unpaid and dishonored check that has the drawee's refusal to pay and reason printed, stamped, or written on or attached to it constitutes prima facie evidence:

- (1) that due presentment of it was made to the drawee for payment and dishonor thereof; and
- (2) that it properly was dishonored for the reason stated.

(c) The fact that a person issued or delivered a check, payment of which was refused by the drawee, constitutes prima facie evidence that the person knew that it would not be paid or honored. In addition, evidence that a person had insufficient funds in or no account with a drawee credit institution constitutes prima facie evidence that the person knew that the check would not be paid or honored.

(d) The following two (2) items constitute prima facie evidence of the identity of the maker of a check, if at the time of its acceptance they are obtained and recorded, either on the check itself or on file, by the payee:

- (1) Name and residence, business, or mailing address of the maker.
- (2) Motor vehicle operator's license number, Social Security number, home telephone number, or place of employment of the maker.

(e) It is a defense under subsection (a) if a person who:

- (1) has an account with a credit institution but does not have sufficient funds in that account; and
- (2) issues or delivers a check for payment on that credit institution;

pays the payee or holder the amount due, together with protest fees and any service fee or charge, which may not exceed the greater of twenty dollars (\$20) or five percent (5%) (but not more than two hundred fifty dollars (\$250)) of the amount due, that may be charged by the payee or holder, within ten (10) days after the date of mailing by the payee or holder of notice to the person that the check has not been paid by the credit institution. Notice sent to the address listed on the check constitutes notice to the person that the check has not been paid by the credit institution. The payee or holder of a check that has been dishonored incurs no civil or criminal liability for sending notice under this subsection.

(f) A person does not commit a crime under subsection (a) when:

- (1) the payee or holder knows that the person has insufficient funds to ensure payment or that the check is postdated; or
- (2) insufficiency of funds or credit results from an adjustment to the person's account by the credit institution without notice to the person.