



Sen. Kirk W. Dillard

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09600HB5749sam001

LRB096 18684 RLC 40327 a

1 AMENDMENT TO HOUSE BILL 5749

2 AMENDMENT NO. _____. Amend House Bill 5749 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by
5 changing Section 17-1 as follows:

6 (720 ILCS 5/17-1) (from Ch. 38, par. 17-1)

7 Sec. 17-1. Deceptive practices.

8 (A) Definitions.

9 As used in this Section:

10 (i) "Financial institution" means any bank, savings
11 and loan association, credit union, or other depository of
12 money, or medium of savings and collective investment.

13 (ii) An "account holder" is any person having a
14 checking account or savings account in a financial
15 institution.

16 (iii) To act with the "intent to defraud" means to act

1 wilfully, and with the specific intent to deceive or cheat,
2 for the purpose of causing financial loss to another, or to
3 bring some financial gain to oneself. It is not necessary
4 to establish that any person was actually defrauded or
5 deceived.

6 (B) General Deception.

7 A person commits a deceptive practice when, with intent to
8 defraud, the person does any of the following:

9 (a) He or she causes another, by deception or threat,
10 to execute a document disposing of property or a document
11 by which a pecuniary obligation is incurred.

12 (b) Being an officer, manager or other person
13 participating in the direction of a financial institution,
14 he or she knowingly receives or permits the receipt of a
15 deposit or other investment, knowing that the institution
16 is insolvent.

17 (c) He or she knowingly makes or directs another to
18 make a false or deceptive statement addressed to the public
19 for the purpose of promoting the sale of property or
20 services.

21 (d) With intent to obtain control over property or to
22 pay for property, labor or services of another, or in
23 satisfaction of an obligation for payment of tax under the
24 Retailers' Occupation Tax Act or any other tax due to the
25 State of Illinois, he or she issues or delivers a check or

1 other order upon a real or fictitious depository for the
2 payment of money, knowing that it will not be paid by the
3 depository. Failure to have sufficient funds or credit with
4 the depository when the check or other order is issued or
5 delivered, or when such check or other order is presented
6 for payment and dishonored on each of 2 occasions at least
7 7 days apart, is prima facie evidence that the offender
8 knows that it will not be paid by the depository, and that
9 he or she has the intent to defraud. In this paragraph (d),
10 "property" includes rental property (real or personal).

11 (e) He or she issues or delivers a check or other order
12 upon a real or fictitious depository in an amount exceeding
13 \$150 in payment of an amount owed on any credit transaction
14 for property, labor or services, or in payment of the
15 entire amount owed on any credit transaction for property,
16 labor or services, knowing that it will not be paid by the
17 depository, and thereafter fails to provide funds or credit
18 with the depository in the face amount of the check or
19 order within 7 days of receiving actual notice from the
20 depository or payee of the dishonor of the check or order.

21 Sentence.

22 A person convicted of a deceptive practice under paragraph
23 (a), (b), (c), (d), or (e) of this subsection (B), except as
24 otherwise provided by this Section, is guilty of a Class A
25 misdemeanor.

26 A person convicted of a deceptive practice in violation of

1 paragraph (d) a second or subsequent time shall be guilty of a
2 Class 4 felony.

3 A person convicted of deceptive practices in violation of
4 paragraph (a) or (d), when the value of the property so
5 obtained, in a single transaction, or in separate transactions
6 within a 90 day period, exceeds \$150, shall be guilty of a
7 Class 4 felony. In the case of a prosecution for separate
8 transactions totaling more than \$150 within a 90 day period,
9 such separate transactions shall be alleged in a single charge
10 and provided in a single prosecution.

11 (C) Deception on a Bank or Other Financial Institution.

12 (1) False Statements.

13 Any person who, with the intent to defraud, makes or causes
14 to be made any false statement in writing in order to obtain an
15 account with a bank or other financial institution, or to
16 obtain credit from a bank or other financial institution, or to
17 obtain services from a currency exchange, knowing such writing
18 to be false, and with the intent that it be relied upon, is
19 guilty of a Class A misdemeanor.

20 For purposes of this subsection (C), a false statement
21 shall mean any false statement representing identity, address,
22 or employment, or the identity, address or employment of any
23 person, firm or corporation.

24 (2) Possession of Stolen or Fraudulently Obtained Checks.

25 Any person who possesses, with the intent to obtain access

1 to funds of another person held in a real or fictitious deposit
2 account at a financial institution, makes a false statement or
3 a misrepresentation to the financial institution, or
4 possesses, transfers, negotiates, or presents for payment a
5 check, draft, or other item purported to direct the financial
6 institution to withdraw or pay funds out of the account
7 holder's deposit account with knowledge that such possession,
8 transfer, negotiation, or presentment is not authorized by the
9 account holder or the issuing financial institution is guilty
10 of a Class A misdemeanor. A person shall be deemed to have been
11 authorized to possess, transfer, negotiate, or present for
12 payment such item if the person was otherwise entitled by law
13 to withdraw or recover funds from the account in question and
14 followed the requisite procedures under the law. In the event
15 that the account holder, upon discovery of the withdrawal or
16 payment, claims that the withdrawal or payment was not
17 authorized, the financial institution may require the account
18 holder to submit an affidavit to that effect on a form
19 satisfactory to the financial institution before the financial
20 institution may be required to credit the account in an amount
21 equal to the amount or amounts that were withdrawn or paid
22 without authorization.

23 Any person who, within any 12 month period, violates this
24 Section with respect to 3 or more checks or orders for the
25 payment of money at the same time or consecutively, each the
26 property of a different account holder or financial

1 institution, is guilty of a Class 4 felony.

2 (3) Possession of Implements of Check Fraud.

3 Any person who possesses, with the intent to defraud and
4 without the authority of the account holder or financial
5 institution, any check imprinter, signature imprinter, or
6 "certified" stamp is guilty of a Class A misdemeanor.

7 A person who within any 12 month period violates this
8 subsection (C) as to possession of 3 or more such devices at
9 the same time or consecutively, is guilty of a Class 4 felony.

10 (4) Possession of Identification Card.

11 Any person who, with the intent to defraud, possesses any
12 check guarantee card or key card or identification card for
13 cash dispensing machines without the authority of the account
14 holder or financial institution is guilty of a Class A
15 misdemeanor.

16 A person who, within any 12 month period, violates this
17 Section at the same time or consecutively with respect to 3 or
18 more cards, each the property of different account holders, is
19 guilty of a Class 4 felony.

20 A person convicted under this Section, when the value of
21 property so obtained, in a single transaction, or in separate
22 transactions within any 90 day period, exceeds \$150 shall be
23 guilty of a Class 4 felony.

24 (Source: P.A. 94-872, eff. 6-16-06.)".