



*Patrick N. Dringman
County Attorney*

BAD CHECK POLICY

Prevention/Protection

1. Business owners and employees should obtain accurate information:
 - a. Full name, street address, phone number
 - b. Driver's license no. and date of birth
 - c. See a valid driver's license or picture ID
 - d. Witness the signing of the check and write your initials on the check.

Note: Our office cannot obtain an arrest warrant from the court unless the check writer's birthdate and driver's license/social security no. are on the check issued.

2. Do not accept:
 - a. Post-dated checks
 - b. Two-party checks
 - c. Checks not signed in your presence
 - d. Checks to be held until later
 - e. Checks given as restitution for bad checks
3. Use caution when accepting the following:
 - a. Out-of-state checks
 - b. Checks having low or no digits
 - c. Counter checks
 - d. Checks in excess of the amount of purchase

The Prosecution Process

1. The Sweet Grass County Attorney's Office cannot and will not prosecute bad checks that have been or are construed as:
 - a. Post-dated
 - b. Two-party checks
 - c. Stop-payment checks
 - d. Checks with no identification
 - e. Checks that were taken by people who cannot identify the person signing the check.
 - f. Checks that are over the statute of limitations date (more than one year old)
 - g. Checks where partial payment has been accepted
2. When a check is returned marked "Forgery" or "Irregular Signature", this check should immediately be taken to the Sweet Grass County Sheriff's Dept. for further investigation.
3. When a check is returned for "NSF" or "Account Closed":
 - a. Send written 5-day notice by certified mail, return receipt to the check writer to establish evidence of the writer's intent to defraud you. (Form "A" is provided for your use.)
 - b. If restitution is not received by you within five days, fill out Form "B" and mail or deliver it with the original check (not a copy) and proof of certified mailing of Form "A" (either the original signed green card or original, unopened letter returned to you) to the Sweet Grass County Attorney's Office at 515 Hooper Street, P.O. Box 1188, Big Timber, Montana 59011.
4. When the Sweet Grass County Attorney's Office receives the original check, Form "B", and proof of certified mailing of the 5-day notice, we will attempt to collect restitution from the check writer by mailing a 10-day demand letter. After 10 business days with no response, a summons or warrant is issued for the check writer's arrest based upon your complaint. A complaint will be filed with the court only if the aggregate amount of the checks or check from a particular check writer exceeds \$50. The warrant will be issued for \$500 plus the amount of the check and \$15 service fee charged against defendant by our office.
5. If no response is received and the amount of the check or checks is less than \$50, the original check and 5-day notice will be returned to you.
6. If a summons or warrant is issued on a misdemeanor bad check charge but has not been served within one year of the date issued, the Sweet Grass County Attorney's Office will dismiss the complaint. If the Sheriff has not been able to locate the check writer for arrest in Montana within one year, it is unlikely that the check writer will be found.

Form "A"
Five-Day Notice

Date: _____

Dear _____:

Pursuant to Section 45-6-316, MCA, you are hereby notified that the undersigned holds check/checks no. _____ in the amount of \$_____ drawn on _____ (bank). The check was made payable to _____, dated _____ and signed _____.

This check has not been paid by the financial institution on which it was drawn and has been returned with the notation _____.

Section 45-6-316, MCA (2013), Issuing a Bad Check, provides:

(1) A person commits the offense of issuing a bad check when the person issues or delivers a check or other order upon a real or fictitious depository for the payment of money knowing that it will not be paid by the depository.

(2) If the offender has an account with the depository, failure to make good the check or other order within 5 days after written notice of nonpayment has been received by the issuer is prima facie evidence that the offender knew that it would not be paid by the depository.

(3) A person convicted of issuing a bad check shall be fined not to exceed \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender has engaged in issuing bad checks that are part of a common scheme or if the value of any property, labor, or services obtained or attempted to be obtained exceeds \$1,000, the offender shall be fined not to exceed \$50,000 or be imprisoned in the state prison for any term not to exceed 10 years, or both.

As provided in Section 45-6-316, MCA, you are hereby given five (5) days from the receipt of this letter in which to make this check good. If you fail to do so, the matter will be turned over to the County Attorney's Office.

Will you immediately contact:

(Name of individual or firm)

(Address)

(Phone)

Form "B"
Bad Check Information Sheet and Complaint

1. Business or individual to whom check is payable.
Name: _____
Complete Address: _____
Phone: _____ Manager: _____

 2. Individual accepting check:
Name: _____
Complete Address(can use business address): _____
Phone: _____

 3. Can person accepting check identify checkwriter? Yes _____ No _____

 4. Did person accepting check look at a picture ID?
If picture ID was NOT taken, how can checkwriter be identified? _____

- NOTE: A warrant cannot be obtained without suspect's name, date of birth & SS#.**
5. Identification of individual passing the check:
Name: _____
Complete Address: _____
Sex _____ Race _____ Hair _____ Eyes _____ DOB _____
Phone _____ DL# _____ SS# _____
Other Identifying Characteristics _____

 6. Check Information
Date Check Written _____ Check # _____ Check Amount _____
Bank _____
Account # _____ Reason check returned _____

 7. Has 5-day demand letter (Form "A") been sent certified? Yes _____ No _____

 8. Was the check post-dated? Yes _____ No _____

 9. Was the check agreed to be held until a later date? Yes _____ No _____

 10. Have any payments been made toward this/these checks? Yes _____ No _____

Please read carefully:

The check(s) was/were accepted with the understanding that it was good. The check(s) was/were not post-dated. The payee was not asked and did not agree to hold the check(s) until a later date. The checkwriter did not state or imply that the check(s) would not be honored at the bank. The check(s) is/are not a two-party check.

I understand that criminal charges may be filed as a result of my signing this complaint and that the checkwriter named above may be arrested. I further agree not to accept payment once the check has been given to the Sweet Grass County Attorney's Office for prosecution. I swear the above facts are true and correct.

Signed _____ Date _____