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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993



# ENROLLED

HOUSE BILL No. 2761

(By Delegates *Pat Htel, Bruce Brown,*  
*L. White, Manuel, Pines + Tublett*)



Passed *April 9,* 1993

In Effect *Ninety Days From* Passage

**ENROLLED**  
**H. B. 2761**

(By DELEGATES PETHTEL, BRUM, BROWN, L. WHITE,  
MANUEL, PINO AND TRIBETT)

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[Passed April 9, 1993; in effect ninety days from passage.]

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AN ACT to amend article six, chapter forty-six-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section one hundred eight, relating to the solicitation of or early presentment of postdated checks and providing civil penalties for violation of this section.

*Be it enacted by the Legislature of West Virginia:*

That article six, chapter forty-six-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section one hundred eight, to read as follows:

**ARTICLE 6. GENERAL CONSUMER PROTECTION.**

**§46A-6-108. Solicitation or cashing of postdated checks; penalties.**

1       (a) No person may:

2       (1) Solicit or accept a postdated check with the intent  
3       of presenting it for payment prior to the date listed on  
4       the check; or

5       (2) Represent in any manner that postdating a check  
6       will prevent its payment from the account of the maker  
7       of the check prior to the date listed on the check; and  
8       either (A) present the check or cause the check to be  
9       presented for payment before the date on the check

10 either intentionally, or (B) in the case of a payee that  
11 is an organization, present the check or cause the check  
12 to be presented without reasonable procedures to  
13 prevent such presentment.

14 (b) When a check is presented for payment from the  
15 account of the maker before the date of the check, no  
16 payee who knowingly accepted a postdated check may  
17 refuse, upon request of the maker of the postdated  
18 check, to immediately return the funds to the maker of  
19 the postdated check, to pay the fees and other costs  
20 incurred by the maker as a result of the early present-  
21 ment of the check.

22 (c) If a person has violated the provisions of subsection  
23 (a) or (b) of this section the maker has a cause of action  
24 to recover from that person, the amount of the check,  
25 any fees or costs incurred and, in addition, a civil  
26 penalty, in an amount determined by the court, of not  
27 less than one hundred nor more than one thousand  
28 dollars.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Handwritten Signature]*  
Chairman Senate Committee

*Ernest C Moore*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*[Handwritten Signature]*  
Clerk of the Senate

*[Handwritten Signature]*  
Clerk of the House of Delegates

*[Handwritten Signature]*  
President of the Senate

*[Handwritten Signature]*  
Speaker of the House of Delegates

The within is approved this the *3rd* day of *May*, 1993.

*[Handwritten Signature]*  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/22/93

Time 11:31 am