

1 **H. B. 2725**

2  
3 (By Delegates Hamilton and Canterbury)  
4 [Introduced January 21, 2011; referred to the  
5 Committee on Banking and Insurance then the Judiciary.]  
6  
7  
8  
9

10 A BILL to amend and reenact §61-3-39c of the Code of West Virginia,  
11 1931, as amended, relating to dishonor of checks presented for  
12 payment.

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

14 That §61-3-39c of the Code of West Virginia, 1931, as amended,  
15 be amended and reenacted to read as follows:

16 **ARTICLE 3. CRIMES AGAINST PROPERTY.**

17 **§61-3-39c. Reason for dishonor; duty of drawee.**

18 It shall be the duty of the drawee of any check, draft or  
19 order, before refusing to pay the same to the holder thereof upon  
20 presentation, to cause to be written, printed or stamped in plain  
21 language thereon or attached thereto, the reason for drawee's  
22 dishonor or refusal to pay same. Reasons for dishonor or refusal  
23 to pay same shall include: Nonsufficient funds, (NSF) closed  
24 account, account closed, no account, no account on file, refer to

1 maker, or any other reason in plain language indicating that  
2 sufficient funds were not available to satisfy payment at the time  
3 the check was presented to drawee from payee. In all prosecutions  
4 under section thirty-nine or thirty-nine-a of this article, the  
5 introduction in evidence of any unpaid and dishonored check, draft  
6 or other written order, having the drawee's refusal to pay stamped  
7 or written thereon, or attached thereto, with the ~~reason therefor~~  
8 ~~as aforesaid:~~ reasons stated:

9 (a) Shall be prima facie evidence of the making or uttering of  
10 said check, draft or other written order, and the due presentation  
11 to the drawee for payment and ~~the~~ its dishonor ~~thereof~~, and that  
12 the same was properly dishonored for the reasons written, stamped  
13 or attached by the drawee on such dishonored checks, drafts or  
14 orders; and

15 (b) Shall be prima facie evidence, as against the maker or  
16 drawer ~~thereof~~, of the withdrawing from deposit with the drawee  
17 named in the check, draft or other written order, of the funds on  
18 deposit with such drawee necessary to insure payment of said check,  
19 draft or other written order upon presentation within a reasonable  
20 time after negotiation; and

21 (c) Shall be prima facie evidence of the drawing, making,  
22 uttering or delivering of a check, draft or written order with the  
23 knowledge of insufficient funds in or credit with such drawee.

NOTE: The purpose of this bill is to expand the powers of the magistrate to prosecute for worthless checks beyond the strict limitations of NSF.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.