

1 AMENDMENT TO SENATE BILL 1713

2 AMENDMENT NO. _____. Amend Senate Bill 1713 as follows:

3 by replacing the title with the following:

4 "AN ACT in relation to criminal law."; and

5 by replacing everything after the enacting clause with the
6 following:

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

9 (720 ILCS 5/17-1) (from Ch. 38, par. 17-1)

10 Sec. 17-1. Deceptive practices. (A) As used in this
11 Section:

12 (i) A financial institution means any bank, savings and
13 loan association, credit union, or other depository of money,
14 or medium of savings and collective investment.

15 (ii) An account holder is any person, having a checking
16 account or savings account in a financial institution.

17 (iii) To act with the "intent to defraud" means to act
18 wilfully, and with the specific intent to deceive or cheat,
19 for the purpose of causing financial loss to another, or to
20 bring some financial gain to oneself. It is not necessary to

1 establish that any person was actually defrauded or deceived.

2 (B) General Deception

3 A person commits a deceptive practice when, with intent to
4 defraud:

5 (a) He causes another, by deception or threat to execute
6 a document disposing of property or a document by which a
7 pecuniary obligation is incurred, or

8 (b) Being an officer, manager or other person
9 participating in the direction of a financial institution, he
10 knowingly receives or permits the receipt of a deposit or
11 other investment, knowing that the institution is insolvent,
12 or

13 (c) He knowingly makes or directs another to make a
14 false or deceptive statement addressed to the public for the
15 purpose of promoting the sale of property or services, or

16 (d) With intent to obtain control over property or to
17 pay for property, labor or services of another, or in
18 satisfaction of an obligation for payment of tax under the
19 Retailers' Occupation Tax Act or any other tax due to the
20 State of Illinois, he issues or delivers a check or other
21 order upon a real or fictitious depository for the payment of
22 money, knowing that it will not be paid by the depository.
23 Failure to have sufficient funds or credit with the
24 depository when the check or other order is issued or
25 delivered, or when such check or other order is presented for
26 payment and dishonored on each of 2 occasions at least 7 days
27 apart, is prima facie evidence that the offender knows that
28 it will not be paid by the depository, and that he has the
29 intent to defraud.

30 (e) He issues or delivers a check or other order upon a
31 real or fictitious depository in an amount exceeding \$150 in
32 payment of an amount owed on any credit transaction for
33 property, labor or services, or in payment of the entire
34 amount owed on any credit transaction for property, labor or

1 services, knowing that it will not be paid by the depository,
2 and thereafter fails to provide funds or credit with the
3 depository in the face amount of the check or order within
4 seven days of receiving actual notice from the depository or
5 payee of the dishonor of the check or order.

6 Sentence.

7 A person convicted of deceptive practice under paragraphs
8 (a) through (e) of this subsection (B), except as otherwise
9 provided by this Section, is guilty of a Class A misdemeanor.

10 A person convicted of a deceptive practice in violation
11 of paragraph (d) a second or subsequent time shall be guilty
12 of a Class 4 felony.

13 A person convicted of deceptive practices in violation of
14 paragraph (d), when the value of the property so obtained, in
15 a single transaction, or in separate transactions within a 90
16 day period, exceeds \$150, shall be guilty of a Class 4
17 felony. In the case of a prosecution for separate
18 transactions totaling more than \$150 within a 90 day period,
19 such separate transactions shall be alleged in a single
20 charge and provided in a single prosecution.

21 (C) Deception on a Bank or Other Financial Institution
22 False Statements

23 1) Any person who, with the intent to defraud, makes or
24 causes to be made, any false statement in writing in order to
25 obtain an account with a bank or other financial institution,
26 or to obtain credit from a bank or other financial
27 institution, knowing such writing to be false, and with the
28 intent that it be relied upon, is guilty of a Class A
29 misdemeanor.

30 For purposes of this subsection (C), a false statement
31 shall mean any false statement representing identity,
32 address, or employment, or the identity, address or
33 employment of any person, firm or corporation.

34 Possession of Stolen or Fraudulently Obtained Checks

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

29 Any person who, within any 12 month period, violates this
30 Section with respect to 3 or more checks or orders for the
31 payment of money at the same time or consecutively, each the
32 property of a different account holder or financial
33 institution, is guilty of a Class 4 felony.

34 3) Possession of Implements of Check Fraud. Any person

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

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

9 Possession of Identification Card

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

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

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

23 (Source: P.A. 84-897.)".