

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 790

Short Title: No Race or Gender on Checks.

(Public)

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Sponsors: Representative Michaux.

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Referred to: Judiciary I.

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April 3, 1997

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT A CHECK TAKER OR ACCEPTOR SHALL NOT  
2 WRITE OR PRINT THE RACE OR GENDER ON THE CHECK OR DRAFT OF A  
3 CHECK PASSER.  
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 14-107.1(b) reads as rewritten:

7 "(b) In prosecutions under G.S. 14-107 the prima facie evidence provisions of  
8 subsections (d) and (e) apply if all the conditions of subdivisions (1) through (7) below  
9 are met. The prima facie evidence provisions of subsection (e) apply if only conditions  
10 (5) through (7) are met. The conditions are:

11 (1) The check or draft is delivered to a check taker.

12 (2) The name and mailing address of the check passer are written or printed  
13 on the check or draft. However, a check taker or acceptor shall not  
14 write or print the race or gender of the check passer on the check or  
15 draft.

16 (3) The check taker identifies the check passer at the time of accepting the  
17 check by means of a North Carolina driver's license, a special  
18 identification card issued pursuant to G.S. 20-37.7, or other reliable  
19 serially numbered identification card containing a photograph and  
20 mailing address of the person in question.

- 1           (4)    The license or identification card number of the check passer appears on  
2           the check or draft.
- 3           (5)    After dishonor of the check or draft by the bank or depository, the  
4           acceptor sends the check passer a letter by certified mail, to the address  
5           recorded on the check, identifying the check or draft, setting forth the  
6           circumstances of dishonor, and requesting rectification of any bank  
7           error or other error in connection with the transaction within 10 days.  
8           An acceptor may advise the check passer in a letter that legal action  
9           may be taken against him if payment is not made within the prescribed  
10          time period. Such letter, however, shall be in a form which does not  
11          violate applicable provisions of Article 2 of Chapter 75.
- 12          (6)    The acceptor files the affidavit described in subdivision (7) with a  
13          judicial official, as defined in G.S. 15A-101(5), before issuance of the  
14          first process or pleading in the prosecution under G.S. 14-107. The  
15          affidavit must be kept in the case file (attached to the criminal pleading  
16          in the case).
- 17          (7)    The affidavit of the acceptor, sworn to before a person authorized to  
18          administer oaths, must:
- 19           a.     State the facts surrounding acceptance of the check or draft. If  
20           the conditions set forth in subdivisions (1) through (5) have been  
21           met, the specific facts demonstrating observance of those  
22           conditions must be stated.
- 23           b.     Indicate that at least 15 days have elapsed since the mailing of  
24           the letter required under subdivision (5) and that the check passer  
25           has failed to rectify any error that may have occurred with  
26           respect to the dishonored check or draft.
- 27           c.     Have attached a copy of the letter sent to the check passer  
28           pursuant to subdivision (5).
- 29           d.     Have attached the receipt, or a copy of it, from the United States  
30           Postal Service certifying the mailing of the letter described in  
31           subdivision (5).
- 32           e.     Have attached the check or draft or a copy thereof, including any  
33           stamp, marking or attachment indicating the reason for  
34           dishonor."

35           Section 2. This act becomes effective October 1, 1997, and applies to acts  
36           committed on or after that date.