

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931
Chapter XIX
CHECKS WITHOUT SUFFICIENT FUNDS

750.131 Check, draft, or order for payment of money; making, drawing, uttering, or delivering without sufficient funds with intent to defraud; violation; penalties; enhanced sentence based on prior convictions.

Sec. 131.

(1) A person shall not make, draw, utter, or deliver any check, draft, or order for the payment of money, to apply on account or otherwise, upon any bank or other depository with intent to defraud and knowing at the time of the making, drawing, uttering, or delivering that the maker or drawer does not have sufficient funds in or credit with the bank or other depository to pay the check, draft, or order in full upon its presentation.

(2) A person shall not make, draw, utter, or deliver any check, draft, or order for the payment of money, to apply on account or otherwise, upon any bank or other depository with intent to defraud if the person does not have sufficient funds for the payment of the check, draft, or order when presentation for payment is made to the drawee. This subsection does not apply if the lack of funds is due to garnishment, attachment, levy, or other lawful cause and that fact was not known to the person when the person made, drew, uttered, or delivered the check, draft, or order.

(3) A person who violates this section is guilty of a crime as follows:

(a) If the amount payable in the check, draft, or order is less than \$100.00, as follows:

(i) For a first offense, a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(ii) For an offense following 1 or more prior convictions under this section or a local ordinance substantially corresponding to this section, a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(b) If the amount payable in the check, draft, or order is \$100.00 or more but less than \$500.00, as follows:

(i) For a first or second offense, a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00 or 3 times the amount payable, whichever is greater, or both imprisonment and a fine.

(ii) For an offense following 2 or more prior convictions under this section, a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a).

(c) If the amount payable in the check, draft, or order is \$500.00 or more, a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00 or 3 times the amount payable, whichever is greater, or both imprisonment and a fine.

(4) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(5) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.131 ;-- Am. 1962, Act 65, Eff. Mar. 28, 1963 ;-- Am. 1984, Act 277, Eff. Mar. 29, 1985 ;-- Am. 1998, Act 312, Eff. Jan. 1, 1999

Former Law: See section 1 of Act 271 of 1919, being CL 1929, § 12064; and Act 142 of 1923.

750.131a Check, draft, or order for payment of money; making, drawing, uttering, or delivering without account, credit, or sufficient funds with intent to defraud; violation as felony; penalties.

Sec. 131a.

(1) A person shall not, with intent to defraud, make, draw, utter, or deliver any check, draft, or order for the payment of money, to apply on an account or otherwise, upon any bank or other depository, if at the time of making, drawing, uttering, or delivering the check, draft, or order he or she does not have an account in or credit with the bank or other depository for the payment of the check, draft, or order upon presentation. A person who violates this subsection is guilty of a felony, punishable by imprisonment for not more than 2 years, or by a fine of not more than \$500.00, or both.

(2) A person shall not, with intent to defraud, make, draw, utter, or deliver, within a period of not more than 10 days, 3 or more checks, drafts, or orders for the payment of money, to apply on account or otherwise, upon any bank or other depository, knowing at the time of making, drawing, uttering, or delivering each of the checks, drafts, or orders that the maker or drawer does not have sufficient funds or credit with the bank or other depository for the payment of the check, draft, or order in full upon its presentation. A person who violates this subsection is guilty of a felony, punishable by imprisonment for not more than 2 years, or by a fine of not more than \$500.00, or both.

History: Add. 1941, Act 200, Eff. Jan. 10, 1942 ;-- CL 1948, 750.131a ;-- Am. 1984, Act 277, Eff. Mar. 29, 1985

750.132 Evidence of intent.

Sec. 132.

Evidence of intent to defraud, etc.—As against the maker or drawer thereof, the making, drawing, uttering or delivering of a check, draft or order, payment of which is refused by the drawee, when presented in the usual course of business, shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in or credit with such bank or other depository, provided such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with all costs and protest fees, within 5 days after receiving notice that such check, draft or order has not been paid by the drawee.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.132

Former Law: See section 2 of Act 271 of 1919, being CL 1929, § 12065.

750.133 Evidence of intent; notice of protest.

Sec. 133.

Notice of protest as evidence of intent to defraud, etc.—Where such check, draft or order is protested, on the ground of insufficiency of funds or credit, the notice of protest thereof shall be admissible as proof of presentation, non-payment and protest, and shall be prima facie evidence of intent to defraud, and of knowledge of insufficient funds or credit with such bank or other depository.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- CL 1948, 750.133

750.134 Checks without sufficient funds; credit construed.

Sec. 134.

Credit construed—The word "credit" as used herein, shall be construed to mean an arrangement or understanding with the bank or depository, for the payment of such check, draft or order, in full, upon the presentation thereof for payment.

History: 1931, Act 328, Eff. Sept. 18, 1931 ;-- Am. 1939, Act 314, Eff. Sept. 29, 1939 ;-- CL 1948, 750.134
Former Law: See section 3 of Act 271 of 1919, being CL 1929, § 12066.