

# SENATE BILL REPORT

## SB 5847

---

---

As Reported By Senate Committee On:  
Labor, Commerce & Financial Institutions, February 27, 2001

**Title:** An act relating to sending a notice of dishonor to the drawer of a check.

**Brief Description:** Sending a notice of dishonor to the drawer of a check.

**Sponsors:** Senators Fraser and Prentice.

**Brief History:**

**Committee Activity:** Labor, Commerce & Financial Institutions: 2/19/01, 2/27/01 [DPS].

---

### SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

**Majority Report:** That Substitute Senate Bill No. 5847 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Gardner, Vice Chair; Benton, Deccio, Fairley, Franklin, Hochstatter, Honeyford, Patterson, Rasmussen, Regala and Winsley.

**Staff:** David Cheal (786-7576)

**Background:** Article 3 of the Uniform Commercial Code governs transactions involving commercial paper—notes, drafts and checks. The provisions dealing with bad checks require notice to the person who wrote the check ("drawer"), which in turn triggers certain time periods after which the payee or other person seeking to enforce the check is entitled to receive interest, costs of collection, and attorney's fees. The notice must be sent by first class mail to the drawer's last known address. The sender of the notice must execute an affidavit of service by mail, and include a copy with the notice. A copy of the affidavit must also be filed with the clerk of the court in which an action on the check is commenced. There is no penalty or loss of rights for failure to send a copy of the affidavit of service with the notice that the check failed to clear ("notice of dishonor"). Failure to send a notice or provide one on request can lead to disputes as to when the 15 day period starts to run that entitles the creditor to costs and attorney fees.

**Summary of Substitute Bill:** Failure to attach a copy of the affidavit of service to the notice of dishonor, or to supply one by mail within one business day following a written request, forfeits the right to collect interest, collection costs, or attorneys' fees by the person attempting to enforce the check. The right to collect the principal amount of the check is unaffected.

**Substitute Bill Compared to Original Bill:** The substitute bill gives the creditor one business day to mail a copy of the affidavit of service following a written request from the debtor in cases where the creditor has failed to provide a copy of the affidavit with the notice of dishonor. The original bill required a copy be furnished "immediately."

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** None.

**Testimony Against:** (concerns) The basic concept is fine; however, the requirement of supplying a copy of the affidavit of service "immediately" might be difficult for some small businesses to comply with, and result in the unfair forfeiture of their right to costs and attorney fees.

**Testified:** Gary Smith, Independent Business Assn.