

BAD CHECK HANDBOOK



Douglas County District Attorney's Office
Mark B. Jackson, District Attorney



**DOUGLAS COUNTY DISTRICT ATTORNEY'S OFFICE
BAD CHECK UNIT**

To The Residents and Merchants of Douglas County, Nevada

Bad checks have a tremendous impact here in Douglas County. Our merchants and businesses are losing hundreds of thousands of dollars each year to bad checks. The Douglas County District Attorney's Office is committed to recovering as much restitution as we can in bad check cases for our merchants and businesses.

To deal with this ever-increasing problem, I have begun a Bad Check Recovery Unit in the District Attorney's Office that provides an efficient and productive process for handling bad checks. Under this program, some offenders will have the opportunity to avoid prosecution if they pay full restitution along with other statutory fees. For those that aren't eligible to participate in this program, we will prosecute them.

This Bad Check Handbook has been prepared to give you the guidelines under which this new bad check program will operate. You may download this Handbook or the bad check complaint forms at www.dcnvda.org.

If you have any questions, please contact the District Attorney's Office, Bad Check Recovery Unit at (775)782-9800.

MARK B. JACKSON
Douglas County District Attorney



What is a Bad Check?

A bad check is a check or casino marker that is not honored when presented at the bank. The bank may indicate that the check wasn't honored due to "insufficient funds," "account closed," or some other reason. If the bank returns the check to you or informs you that the check was not honored, then you can submit the check or a bank certified copy of the check to our office for review, and we will identify whether or not we can help you obtain restitution. If we are unable to help you because of the nature of the circumstances surrounding your case, we will return the check to you with an explanation.

Before a check can be accepted by our Office, it must have been deposited with your bank. The law also requires that after the check is returned, you must then send a written notice by certified mail to the person who wrote and passed the bad check to you or your business.

There are some checks that we cannot handle. To collect on those checks, you need to utilize a civil complaint and hire a private attorney. **We cannot prosecute any of the following types of checks:**

- Checks that do not show payee, date, amount or signature.
- Checks that are pre-dated or post-dated, or where an agreement was made to hold the check for later payment. There is an exception to this for casino markers.
- Checks for which identification of the check writer and person accepting the check cannot be ascertained.
- Checks not written or passed within Douglas County.
- Checks involving an extension of credit, other than at a licensed gaming establishment.
- Two-party checks.
- Checks that are returned "Stop Payment" where there is a verifiable dispute.
- Checks where you have received partial payment or negotiated a lesser amount.
- Checks written for a pre-existing debt.
- Rent checks or rent deposit checks.
- Checks that were passed more than six months ago if under \$250, or more than one year if over \$250.

If you have taken a check that you suspect is altered or suspected of being a forgery or counterfeit, please contact the Douglas County Sheriff's Office at (775) 782-9900.

Establishing Your Policies and Procedures for Accepting Checks

It is important that you or your company establish a set policy and a list of procedures to be followed by all employees when accepting checks. It is vital that you train your employees of the importance of following your policies and procedures. Your policies should include the following:

1. Post dated checks will not be accepted.
2. Do not accept pre-signed checks.
3. Do not accept two party checks—the District Attorney’s office will not be able to help you by prosecuting if it is not honored by the bank.
4. Always require a governmental issued picture ID for cashing checks. Write down the ID information on the check and, if possible, make a photocopy of the identification card.
5. Take a picture of individuals cashing checks (optional but very effective). This provides excellent evidence for court.
6. Get a thumb print on the front or back of the check (optional but also very effective). There are fingerprint kits available that do not leave black ink on the fingers.
7. Do not accept another check from a bad check writer unless the first bad check has been cleared and paid off.

Working with Customers

Everyone is concerned about not offending customers. Therefore, it is important to teach your employees how to follow your new procedures in an effective, but non-offensive manner. Good customers do not mind policies and procedures which demonstrate that the merchant is careful and diligent about all money matters. Asking for ID or getting a thumb print shows that you are careful about who is handing you a check, and doing this will help prevent fraud and bad checks. When customers ask why you are changing your policies, tell them that you are doing this to protect them against identity theft and to protect both of you from stolen checks being cashed. Good customers will understand and appreciate this.

How to Decline a Check Diplomatically

The easiest way to decline a check that is questionable in your mind is to leave the customer for a moment, then come back and tell the customer in a matter-of-fact manner with a pleasant demeanor (just as you would for a declined credit card) that the check has been declined, and that you can accept payment by cash, debit card or credit card (whatever types of payment you accept). If the customer becomes upset about this, you probably have made a good decision in not accepting the check.

Types of Government Issued ID

Driver's Licenses

Instruct your employees to compare photos on the license with the check writer's real appearance. Hair color and weight can always change, but one's sex and race are generally easy to determine. Age, which can be determined from the birth date, is also an important identification factor. Is the driver's license address the same as the address on the check? If not, verify and record the correct address. Is the driver's license current and valid? Do not accept an expired license as valid identification. Do not accept any ID card that appears to be altered or otherwise damaged. If you have any doubts, do not accept the check.

Work Cards (Gaming or Non-Gaming)

Work Cards contain photographs, and the fingerprints of the person with the card are on file. Therefore, this is adequate identification for prosecution if the work card number is on the check and the photograph has been checked against the person handing you the check. Making a copy of the ID would be extremely helpful to the District Attorney's Office. Do not accept an out-of-state work card for identification.

Passports

Passports are a good ID for those from non-United States residents if the check is written on a Nevada bank account. Some visitors come to the area so often that they set up local bank accounts. If you take a check from a foreign bank, we will not be able to assist you in recovery.

State Identification Cards

These also contain photographs, but are easily obtainable and easily forged. They should never be relied upon as the sole means of identifying a check writer. Do not accept a state identification card unless it is from Nevada.

Checklist for Cashiers

1. **Examine the Check.** Be suspicious of checks that have a low check number, no printed check number or no printed name. Nearly 90% of bad checks are drawn on accounts less than one-year old. If check numbers are handwritten or lower than 250, you should exercise caution.
2. Checks must be dated the same day they are given. Postdated checks cannot be prosecuted. You take them at your own risk.
3. Do not accept pre-signed checks. Make sure all checks are signed in your presence. It is vital that the signature be legible. If not, ask the individual to print his/her name above the signature.
4. Ask for government issued picture ID. This is essential. All signatures should be compared with the signature on a valid driver's license or other identification.

5. Make sure that the numeric dollar amount matches the written dollar amount. A check for \$16.25 should say, in words: “Sixteen and twenty-five/100 dollars” or “Sixteen and 25/100 dollars.” Banks will not honor checks with discrepancies.
6. Make sure the check writer does not write their driver’s license number, or other photo ID number, on the check. Ask for the ID card and do it yourself. This protects against a false number being provided. Also, the presence of your handwriting is another way for you to identify the check at a later date, as required for prosecution.
7. Require a permanent street address – not a P.O. Box number. Do not take counter checks without an address, “starter checks,” or new account checks, without extra precautions.
8. We urge you not to accept checks from persons who live and/or bank out of state. It can be difficult obtaining bank records from other states. In addition, extradition from other states is extremely expensive, and sometimes declined in cases, such as bad checks, where public safety is not an issue.
9. Be wary of repeat offenders. If you have knowledge that a customer has a history of writing bad checks, do not accept another check from this individual.

Some Tips for Detecting Fraudulent Checks

- Check the finish on the black magnetic computer numbers on the bottom. The magnetic ink is very dull and never shiny.
- Look for at least one perforated edge on the check. All checks, except some government or computer-produced checks should have a perforated edge.
- Check for any words or numerals that appear to have been altered. Look for different handwriting, different color ink, or any other suspicious differences. If you find discrepancies which concern you, then you should decline the check.
- Look for changes or additions to the name of the payee. If the color, density, or writing of the name appears different, there may have been an alteration. If you are cashing a check for a customer and there are two payees listed. For example: “Paul Jones or John Smith”), and the second name appears different in color, density or writing, there may have been an alteration.

Steps to Take if you Receive a Bad Check

In order to submit a check to our office for collection or prosecution, the law requires that you first send written notice to the person who wrote and passed the bad check to you or your business. This notice must be sent by certified mail.

The notice should be sent to the address printed on the check, or at the last known address, informing the maker that the check was dishonored. Retain a copy of the notice for future use. Sample form letters are printed at the back of this booklet.

If the maker fails to make good on the check within fifteen (15) days after the written notice is mailed, the law presumes the check was passed with the intent to defraud. If you have not been paid for the check by the end of this fifteen day period, you may request that this office commence a procedure to obtain restitution or prosecute the writer of the check.

To submit a bad check to us, you must complete the Bad Check Complaint Form for each check. It is very important when completing this form that you identify who from your business took the check and if they can identify the check writer. Attach a photocopy of the original check(s) returned by the bank (to be copied as follows: front and back of the check copied to the same side of the page). Also, include a photocopy of the 15-day notice and certified mail receipt and/or signed card.

If the offender contacts you after you have sent the bad check to our office and wants to pay off the check or make partial payment, *you must tell the offender to contact our office*. If you accept partial payment from the offender, our office can no longer assist you. You must contact us if you take any payment from the offender.

Once we have received restitution from the offender, a check will be sent to you from the Douglas County Comptroller.

If your testimony is required in Court, we will notify you of the time and place, by subpoena. If you do not appear when required, our ability to pursue the matter any further on your behalf will end.

What You Must Send the Bad Check Recovery Unit

1. A completed complaint form for each check submitted.
2. A copy of the 15-day demand letter that you sent to the offender, with a photocopy of the certified receipt and/or signed card.
3. A photocopy of the original check, front and back, copied to the same side of the page. You must retain the original check and certified receipt in your possession.

It is important that we be able to read the photocopied documents.

Instructions to copy the front and back of the check on one page are as follows:

1. Place the original check face down on the copy machine and photocopy.
2. Take that copy and lay the check face down beneath the front side of already copied check and photocopy.
3. Send the entire 8 ½ x 11 sheet of paper with the completed complaint form.

Failure to provide all of the items listed above, necessary for processing the check, will require their return to you. Please take care to compile all of the items necessary for collection and/or prosecution prior to submission.

Do not send bad checks to the sheriff's department. The Douglas County District Attorney's Office has worked with the sheriff's department to bypass them on matters of insufficient funds checks so that their time may be more appropriately devoted to other areas of public safety.

The Role of the District Attorney's Office

The job of the District Attorney's Criminal Division is the prosecution of criminals. However, the Nevada statutes allow us to set up a Bad Check Diversion Program in lieu of that prosecution. The primary goal of the Diversion Program is to expedite the process of obtaining 100% victim restitution. "Restitution" refers to 100% of the face value of the check(s), in addition to any "returned item" charges assessed to the victim's bank account and certified mail expenses incurred when attempting to notify the check writer. The maximum amount for these additional items is \$25.00 per check. The offender shall also be required to pay an administrative fee to the District Attorney's Office as provided by law.

If your bad check case is accepted, the District Attorney's Office will send out a letter urging the issuer to pay restitution and warning them of possible criminal charges. If the offender still does not contact our office and does not arrange to pay restitution, we will then evaluate your case for possible criminal prosecution.

Prosecution

Only the District Attorney's Office can determine whether the evidence is sufficient to file criminal charges, or whether the circumstances merit the expenditure of the resources necessary to pursue prosecution. If there is little chance of obtaining restitution from the check writer due to prior criminal history, high dollar amount check, unknown whereabouts, or high volume of additional complaints, the District Attorney may immediately pursue prosecution. If the District Attorney's Office obtains a conviction on the check writer, we will ask for restitution on your behalf as part of the sentence.

Please remember that the District Attorney's Office has the sole right to decide how a bad check case is to be handled. If the check cannot be collected or prosecuted, we will return it to you with an explanation. You may want to contact a collection service if we cannot assist you.

If we are able to collect from the offender, all payments will be applied in the following manner:

- Administrative Fees as provided by law.
- Victim Restitution (if there is more than one victim, payments will be prorated.)
- Actual costs of the victim including bank charges and charges for certified mail up to \$25 per check.

Other Things You Can Do to Prevent Bad Check Fraud

- If you are going to utilize our services, you must display a sign in your store, showing your cooperation with the Douglas County District Attorney's Office. Not only will this put bad check writers on notice, but it may make your regular customers a little more patient with your procedures. A sign is included in your packet. If you need another copy, please contact our office.
- If you take a high volume of checks, we strongly urge you to implement a fingerprint system or photo process for subsequent identification. This also acts as a strong deterrent to bad checks.
- During Christmas, back-to-school, or other busy seasons, store employees are distracted and busy, and professional bad check writers may be working in the area. Please ask your employees to use special care during these times.
- If a person's check has bounced before, do not take another check.
- Please use this manual as a resource for training employees who will be accepting checks. You should review it with them before traditionally busy seasons.

Bad Check Recovery Unit Contact Information

For further information, or to obtain complaint forms or sample letters, please contact the Bad Check Recovery Unit at:

**Carson Valley Office
1038 Buckeye Road
Minden, NV 89423
(775) 782-9800**

**Lake Tahoe Office
175 Highway 50
Stateline, NV 89449
(775) 586-7215**

Or you may download this handbook as well as sample letters and complaint forms at www.dcnvda.org.

SAMPLE FORM OF THE 15-DAY NOTICE LETTER
(Must be sent to check writer by certified mail only)

Minden Merchant
Hwy 395 South
Minden, NV 89423

July 1, 2008

Ms. Check Writer
5678 Lake Tahoe St.
Stateline, NV 89449

Re: Your check, no. 2307, drawn on the Bank of America, dated October 5, 2007, in the amount of \$27.95, payable to Minden Merchant.

Dear Ms. Doe:

This above listed check, drawn on your account, has been returned to us by your bank marked, "insufficient funds (or other reason)." Pursuant to NRS 205.130, it is a criminal offense to issue or pass a check, knowing that there are not sufficient funds in the account to pay the check.

Demand is hereby being made for immediate payment of funds to cover that check. This letter constitutes your fifteen (15) day written notice that your check was returned marked "Insufficient Funds" as provided by Nevada law. You must make restitution on this check by (date), or we will submit this matter to the Douglas County District Attorney for legal action. Restitution within the next fifteen (15) days must be made directly to us.

Sincerely,

Business Owner
Business Name
1234 Any Street
Minden, NV 89423