

Defined terms: "Check" § 8-101

"Drawer" § 8-101

"Funds" § 8-101

"Issue" § 8-101

"Representative drawer" § 8-101

8-105. SAME — LIMITATION ON PROSECUTION.

(A) IN GENERAL — PROSECUTION AS THEFT.

A PERSON WHO OBTAINS PROPERTY OR SERVICES BY ISSUING OR PASSING A CHECK IN VIOLATION OF § 8-103 OF THIS SUBTITLE MAY NOT BE PROSECUTED UNDER THIS ARTICLE, IF:

(1) OTHER THAN FALSELY REPRESENTING THAT THERE ARE SUFFICIENT FUNDS WITH THE DRAWEE TO COVER THE CHECK, THE ISSUING OR PASSING OF THE CHECK IS NOT ACCOMPANIED BY A FALSE REPRESENTATION; AND

(2) THE PERSON WHO OBTAINS THE PROPERTY OR SERVICES MAKES THE CHECK GOOD WITHIN 10 DAYS AFTER THE DRAWEE DISHONORS THE CHECK.

(B) DELAY OF PROSECUTION.

(1) A PROSECUTION MAY NOT BE COMMENCED AGAINST A PERSON DESCRIBED IN SUBSECTION (A) OF THIS SECTION EARLIER THAN 10 DAYS AFTER THE DRAWEE DISHONORS THE CHECK.

(2) A PERSON WHO OBTAINS PROPERTY OR SERVICES BY ISSUING A CHECK IN VIOLATION OF § 8-103 OF THIS SUBTITLE MAY BE PROSECUTED IMMEDIATELY UNDER THIS ARTICLE, IF THE PERSON ISSUING THE CHECK:

(I) IS THE DRAWER; AND

(II) DID NOT HAVE AN ACCOUNT WITH THE DRAWEE WHEN THE CHECK WAS ISSUED.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 27, § 144.

In this section, the references to issuing or passing a check "in violation of § 8-103 of this subtitle" are added for clarity.

Also in this section, the references to "this article" are substituted for the former references to "the subheading 'theft' of this article, or ... any other section of this article" for clarity and brevity.

In subsection (b)(1) of this section, the reference to a period of 10 days "after the drawee dishonors the check" is substituted for the former reference to "that period" for clarity.

Also in subsection (b)(1) of this section, the former reference to commencing prosecution "by warrant, information, indictment, or other charging document" is deleted as surplusage.