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Amending Sections 40-14-10 and 40-14-20, Colorado Revised Statutes 1963, Concerning No Account and Short Checks.

Colorado General Assembly

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CHAPTER 137

CRIMES AND PUNISHMENTS

FRAUD IN OBTAINING PROPERTY OR SERVICES

(Senate Bill No. 13. By Senators Hewett, Stockton, Lamm, Perrill, Rockwell, Kelley, Scott, Oliver, Lucas, Donlon, Williams, Cisneros, Vollack, and Locke; also Representatives Compton, Calabrese, Gollob, Gillaapey, Black, Fentress, Jackson, Morris, Clark, DeMoulin, Skelton, Colorado, Monfort, Miller, Farley, and O'Brien.)

AN ACT

AMENDING SECTIONS 40-14-10 AND 40-14-20, COLORADO REVISED STATUTES 1963, CONCERNING NO ACCOUNT AND SHORT CHECKS.

Be It Enacted by the General Assembly of the State of Colorado:

Section 1. 40-14-10, Colorado Revised Statutes 1963, is hereby amended to read:

40-14-10.—Giving no account check, draft, or order—penalty.—(1) Any person, firm, or corporation, who, with intent to defraud or deceive, shall make or draw or utter or deliver, **OR CAUSE TO BE MADE, DRAWN, UTTERED, OR DELIVERED,** any check, draft, or order for the payment of any draft in whatsoever manner contracted or for the payment of money upon any bank, banking association, or other depository wherein such maker or drawer shall not have an account for the payment of the same, or, who having had an account, said account has been closed by said bank, banking association, or other depository for a period of ninety days or more prior to the **MAKING OR** drawing or uttering or delivery of said check, draft, or order for the payment of the same, for the payment of services, wages, salary, labor, rent, goods, merchandise, money, or other thing of value, shall be guilty of a felony, and upon conviction thereof, shall be fined not to exceed one thousand dollars, or be imprisoned in the state

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

penitentiary for not less than one year nor more than five years, or both.

Section 2. 40-14-20 (1), Colorado Revised Statutes 1963, is hereby amended, and said section is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

40-14-20.—**Short checks—penalty.**—(1) Any person, firm, or corporation, who, with intent to defraud or deceive, shall make or draw or utter or deliver, OR CAUSE TO BE MADE, DRAWN, UTTERED, OR DELIVERED, any check, draft, or order for the payment of money upon any bank, banking association, or other depository wherein such maker or drawer shall not have sufficient funds or credit for the payment of the same, and thereby obtains from any person, firm, or corporation, any money, personal property, or other valuable thing OF VALUE, or who with the intent to defraud or deceive shall make or draw or utter or deliver, OR CAUSE TO BE MADE, DRAWN, UTTERED, OR DELIVERED, any check, draft, or order upon any bank, banking association, or other depository wherein such maker or drawer shall not have sufficient funds or credit for the payment of the same for the payment of services, wages, salary, labor, or rent, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not to exceed one thousand dollars, or imprisoned in the county jail not to exceed one year, or shall suffer both such fine and imprisonment.

(6) Any person who shall make or draw or utter or deliver any check in the sum of fifty dollars or more, or a series of checks within any thirty day period within the jurisdiction of the state of Colorado, totaling the sum of fifty dollars or more, upon any bank to procure a thing of value, with intent to defraud, cheat, or deceive any person, partnership, or corporation knowing that the maker, drawer, or payor has insufficient funds for the payment of such check in such bank, shall be guilty of a felony and, upon conviction, shall be punished by confinement in the state penitentiary for not less than one year nor more than five years, or be fined not to exceed one thousand dollars, or both.

(7) If any person, partnership, or corporation shall by written or verbal complaint, or otherwise, institute or cause to be instituted any prosecution for any violation of this section or of section 40-14-10, and shall thereafter, whether or not restitution is sought or received from the maker or drawer of the check, fail to cooperate in the full prosecution of the alleged offender without reasonable cause, the court having jurisdiction, on motion of the prose-

cuting attorney appearing therein, and after notice to such person, partnership, or corporation and an opportunity to be heard, may give judgment against such person, partnership, or corporation and in favor of the county wherein prosecution was commenced, for all costs of the prosecution, including a reasonable allowance for the time of the prosecuting attorney.

(8) The provisions of this section and of section 40-14-10 shall not apply to any check made, drawn, or uttered, or delivered as payment for credit extended prior to the time when the check was made; provided, that in the event additional credit or some other thing of value is secured from the person, partnership, or corporation by whom the credit was extended, because of such a check, the provisions of this section shall apply.

Section 3.—**Repeal.**—40-14-20 (5), Colorado Revised Statutes 1963, is hereby repealed.

Section 4.—**Safety clause.**—The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 10, 1965.