

## INSTRUCTIONS

### BAD CHECK - INSUFFICIENT FUNDS

The Windsor County State's Attorney's Office will consider prosecution of insufficient fund account cases if the investigation produces the information set out below:

1. The bad check or checks total \$100 or more(individual or aggregate)
2. The check is held in evidence
3. The check was written on a Vermont checking account – (no out of state checks)
4. The check was passed in person (no mailed checks)
5. The person who accepted the check is able to identify the individual who passed the check
6. If the person who accepted the check is unable to identify the individual who passed the check the following information was obtained from the passer's current driver's license:
  - a. Name
  - b. Address
  - c. Driver's License number
7. The check was presented for payment within 30 days after the day of issuance (13 VSA 2022)
8. Notice of the checks dishonor was given to the individual who passed the check and more than ten (10) days was provided for them to make the check good after receipt of the notice. (13 VSA 2022)  
This notice is usually sent by the merchant certified return receipt and restricted delivery. The certified receipt and return receipt must be held as evidence.
9. The person's name and address were pre-printed on the check
10. No two-party checks will be prosecuted
11. No post dated checks will be prosecuted
12. No repeat prosecutions for the same defendant at the same business
13. The business agrees to advise the State's Attorney or investigating officer if and when the issuer makes good on the check

Please remember that to prevail in a bad check case we must prove that the issuer knew the check would not be honored at the time it was written. This protocol does not limit prosecutions for false pretenses under 13 VSA § 2002.

Once the 10-day statutory bad check notice has been received, and you have received the "receipt" back from the post office criminal investigation may be started. Bring all paperwork with you to the police department. A copy will be made and returned to you for your records. You will also need to complete a Voluntary Statement (must be signed in the presence of a Notary Public) detailing the encounter with this person, and include such things as:

Date of offense, time of offense, location check was accepted, amount of check, check number , what was purchased, name of person presenting the check, whether person was known to you, your observation of the endorsement, date check was deposited, bank in which check was deposited, date check was returned reason check was returned, number of attempts made to contact person, what kinds of attempts were made to contact person, i.e., phone, mail, etc., ten days were allowed to make restitution

BAD CHECK - INSUFFICIENT FUNDS REPORT

Your Business Name: \_\_\_\_\_

Business Address: \_\_\_\_\_

Business Phone: \_\_\_\_\_

Person Making Report: \_\_\_\_\_

Job Title: \_\_\_\_\_

Home Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_

Full address of business, branch, place where check was accepted: \_\_\_\_\_

Check Number \_\_\_\_\_ Date check was Accepted: \_\_\_\_\_ Amount: \$ \_\_\_\_\_

Name of Person who presented the check: \_\_\_\_\_

The following MUST be completed by person who accepted the check:

Your Name: \_\_\_\_\_

Home Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_

Description of person passing check: Race: \_\_\_\_\_ Age: \_\_\_\_\_ Sex: \_\_\_\_\_ Height: \_\_\_\_\_ Weight \_\_\_\_\_

Hair Color: \_\_\_\_\_ Hair Length: \_\_\_\_\_

Name given you by person passing check: \_\_\_\_\_

Person claimed employment at: \_\_\_\_\_

Phone Number person gave: \_\_\_\_\_

Address: \_\_\_\_\_

Person's Driver's License Number: \_\_\_\_\_ State: \_\_\_\_\_

Other identified used: \_\_\_\_\_

Description of automobile involved (if any) MAKE: \_\_\_\_\_ MODEL: \_\_\_\_\_

COLOR: \_\_\_\_\_ PLATE NUMBER: \_\_\_\_\_ STATE: \_\_\_\_\_

Description of person who accompanied the person(s) passing the check: \_\_\_\_\_

Name of other person(s) who witnessed the transaction: \_\_\_\_\_

Witnesses phone number: \_\_\_\_\_

CIRCLE PROPER RESPONSE:

Do you recall the transaction and/or what was purchased? YES NO

Was the person passing the check known to you? YES NO

The person who accepted the check, can you identify the person? YES NO

HOW: \_\_\_\_\_

What did the person obtain in exchange for the check:

(a) Credit for a bill? YES NO

(b) Services? YES NO

(c) Cash? Amount: \$ \_\_\_\_\_ YES NO

(d) Merchandise? YES NO

Describe: \_\_\_\_\_

Was the check postdated and/or did the person ask you to hold the check to a future date? YES NO

Did you see the person write the check and/or endorse the check? At the time it was accepted? YES NO

Did you initial, mark or write on the check at the time you accepted it? YES NO  
If so, describe: \_\_\_\_\_

Detail what steps you or your employees have taken to contact the Suspect and/or recover your loss:

Was the person contacted? YES NO By Who: \_\_\_\_\_

Date: \_\_\_\_\_ Where: \_\_\_\_\_

Result: \_\_\_\_\_

Has the person attempted to make restitution? YES NO

If so, detail \_\_\_\_\_

Have you successfully served a 10-day statutory bad check notice on the person? YES NO

Certified Return Receipt/Restricted Mail: YES NO or Personal Service YES NO

If not served, why? \_\_\_\_\_

Do you feel that you have exhausted your ability to collect this check? YES NO

Do you feel that the person intended to defraud you when s/he passed the check? YES NO

Have you retained an attorney or turned this matter over to a collection agency in an attempt to collect the check? YES NO

If yes, whom? \_\_\_\_\_

**NOTE:**

Please indicate on the reverse side of this form anything that you feel would help in locating and prosecuting this person. The decision whether or not to prosecute this person will be made by a representative of the Windsor County State's Attorney's Office, who will take into account numerous factors, including what evidence exists of intent of fraud, and the availability of necessary bank records. Criminal prosecution does not guarantee restitution as prosecution is designed to punish not to collect debts. If you agree to have this person prosecuted, you cannot drop the charge if s/he offers to pay the check. If a criminal case cannot be proven, the check will be turned to you upon request.

I hereby understand and agree to all of the information contained in this document and that it is to be used by, and disseminated among all law enforcement agencies, the office of the state's attorney and the court. I also understand and agree that this check is being submitted for criminal prosecution and that if criminal prosecution is instituted, it will be necessary for those persons having knowledge of the facts to appear and testify in court.

I hereby certify that no one has accepted full or partial restitution for this particular check as of this date, and I further agree not to accept restitution without notifying:

I hereby certify that I have read and understand the directions for this form, and that all of the facts herein are to the best of my knowledge, true, accurate, and complete.

Signature of person making report: \_\_\_\_\_

Printed name of person making report: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_, Vermont

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear: \_\_\_\_\_:

The check you presented to us, drawn on \_\_\_\_\_  
Name of Bank

In payment for merchandise or services purchased on \_\_\_\_\_  
Date

in the amount of \$\_\_\_\_\_, has been returned by the bank due to Insufficient Funds.

Pursuant to Vermont Law, Title 13, Vermont Statutes Annotated, Section 2022: "A person who issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee, shall be imprisoned for not more than one year or fined not more than \$1,000.00 or both..."

You are hereby notified of this nonpayment.

Your failure to make payment of the check within 10 days will leave us not alternative but to refer this matter to the Hartford Police Department.

Sincerely,