



1           (2) payment was refused by the bank or other drawee for  
2 lack of funds or insufficient funds, on presentation within 30 days  
3 after issue, and the issuer failed to pay the holder in full within  
4 10 days after receiving notice of that refusal.

5           SECTION 3. The heading to Section 32.41, Penal Code, is  
6 amended to read as follows:

7           Sec. 32.41. ISSUANCE OF BAD CHECK OR SIMILAR SIGHT ORDER.

8           SECTION 4. Subsection (e), Section 32.41, Penal Code, is  
9 amended to read as follows:

10          (e) A person charged with an offense under this section may  
11 make restitution for the bad checks or sight orders. Restitution  
12 shall be made through the prosecutor's office if collection and  
13 processing were initiated through that office. In other cases  
14 restitution may be, with the approval of the court in which the  
15 offense is filed:

16           (1) made through the court; or

17           (2) collected by a law enforcement agency if a peace  
18 officer of that agency executes a warrant against the person  
19 charged with the offense.

20          SECTION 5. Subdivision (1), Subsection (a), Section 32.45,  
21 Penal Code, is amended to read as follows:

22           (1) "Fiduciary" includes:

23           (A) a trustee, guardian, administrator,  
24 executor, conservator, and receiver;

25           (B) an attorney in fact or agent appointed under  
26 a durable power of attorney as provided by Chapter XII, Texas  
27 Probate Code;

1 (C) any other person acting in a fiduciary  
2 capacity, but not a commercial bailee unless the commercial bailee  
3 is a party in a motor fuel sales agreement with a distributor or  
4 supplier, as those terms are defined by Section 162.001 [~~153.001~~],  
5 Tax Code; and

6 (D) an officer, manager, employee, or agent  
7 carrying on fiduciary functions on behalf of a fiduciary.

8 SECTION 6. Subsection (a), Section 3.507, Business &  
9 Commerce Code, is amended to read as follows:

10 (a) On return of a check or similar sight order, as defined  
11 by Section 1.07, Penal Code, to the holder following dishonor of the  
12 check or sight order by a payor and prior to the check or sight order  
13 being referred for prosecution, the holder, the holder's assignee,  
14 agent, or representative, or any other person retained by the  
15 holder to seek collection of the dishonored check or sight order may  
16 charge the drawer or indorser of the check or sight order the cost  
17 of delivery notification by registered or certified mail with  
18 return receipt requested under Section 31.06 or Section 32.41,  
19 Penal Code, as applicable.

20 SECTION 7. The heading to Article 102.007, Code of Criminal  
21 Procedure, is amended to read as follows:

22 Art. 102.007. FEE FOR COLLECTING AND PROCESSING CHECK OR  
23 SIMILAR SIGHT ORDER.

24 SECTION 8. Subsections (a) and (e), Article 102.007, Code  
25 of Criminal Procedure, are amended to read as follows:

26 (a) A county attorney, district attorney, or criminal  
27 district attorney may collect a fee if the attorney's [~~his~~] office

1 collects and processes a check or similar sight order, as defined by  
2 Section 1.07, Penal Code, if the check or similar sight order:

3 (1) has been issued or passed in a manner that makes  
4 the issuance or passing an offense under:

5 (A) Section 31.03, Penal Code;

6 (B) Section 31.04, Penal Code; or

7 (C) Section 32.41, Penal Code; or

8 (2) has been forged, as defined by Section 32.21,  
9 Penal Code.

10 (e) In addition to the collection fee specified in  
11 Subsection (c) [~~of this article~~], the county attorney, district  
12 attorney, or criminal district attorney may collect the fee  
13 authorized by Section 3.506, Business & Commerce Code, for the  
14 benefit of the holder of a check or similar sight order or the  
15 holder's [~~its~~] assignee, agent, representative, or any other person  
16 retained by the holder to seek collection of the check or order.

17 SECTION 9. Article 102.0071, Code of Criminal Procedure, is  
18 amended to read as follows:

19 Art. 102.0071. JUSTICE COURT DISHONORED CHECK OR SIMILAR  
20 SIGHT ORDER. On conviction in justice court of an offense under  
21 Section 32.41, Penal Code, or an offense under Section 31.03 or  
22 31.04, Penal Code, in which it is shown that the defendant committed  
23 the offense by issuing or passing a check or similar sight order, as  
24 defined by Section 1.07, Penal Code, that was subsequently  
25 dishonored, the court may collect from the defendant and pay to the  
26 holder of the check or order the fee permitted by Section 3.506,  
27 Business & Commerce Code.

1 SECTION 10. Sections 102.101 and 102.102, Government Code,  
2 are amended to read as follows:

3 Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN  
4 JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice  
5 court shall collect fees and costs under the Code of Criminal  
6 Procedure on conviction of a defendant as follows:

7 (1) a jury fee (Art. 102.004, Code of Criminal  
8 Procedure) . . . \$3;

9 (2) a fee for withdrawing request for jury less than 24  
10 hours before time of trial (Art. 102.004, Code of Criminal  
11 Procedure) . . . \$3;

12 (3) a jury fee for two or more defendants tried jointly  
13 (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;

14 (4) a security fee on a misdemeanor offense (Art.  
15 102.017, Code of Criminal Procedure) . . . \$4;

16 (5) a fee for technology fund on a misdemeanor offense  
17 (Art. 102.0173, Code of Criminal Procedure) . . . \$4;

18 (6) a juvenile case manager fee (Art. 102.0174, Code  
19 of Criminal Procedure) . . . not to exceed \$5 if the court employs a  
20 juvenile case manager;

21 (7) a fee on conviction of certain offenses involving  
22 issuing or passing a subsequently dishonored check or similar sight  
23 order (Art. 102.0071, Code of Criminal Procedure) . . . not to  
24 exceed \$30;

25 (8) a court cost on conviction of a Class C misdemeanor  
26 in a county with a population of 3.3 million or more, if authorized  
27 by the county commissioners court (Art. 102.009, Code of Criminal

1 Procedure) . . . not to exceed \$7; and

2 (9) a civil justice fee (Art. 102.022, Code of  
3 Criminal Procedure) . . . \$0.10.

4 Sec. 102.102. ADDITIONAL COURT COSTS ON CONVICTION IN  
5 JUSTICE COURT: BUSINESS & COMMERCE CODE. The clerk of a justice  
6 court shall collect from a defendant a court cost not to exceed \$30  
7 under Section 3.506, Business & Commerce Code, on conviction of  
8 certain offenses involving issuing or passing a subsequently  
9 dishonored check or similar sight order.

10 SECTION 11. The heading to Section 162.409, Tax Code, is  
11 amended to read as follows:

12 Sec. 162.409. ISSUANCE OF BAD CHECK OR SIMILAR SIGHT ORDER  
13 TO LICENSED DISTRIBUTOR, LICENSED SUPPLIER, OR PERMISSIVE  
14 SUPPLIER.

15 SECTION 12. Subsections (a) and (d), Section 162.409, Tax  
16 Code, are amended to read as follows:

17 (a) A person commits an offense if:

18 (1) the person issues or passes a check or similar  
19 sight order, as defined by Section 1.07, Penal Code, for the payment  
20 of money knowing that the issuer does not have sufficient funds in  
21 or on deposit with the bank or other drawee for the payment in full  
22 of the check or order as well as all other checks or orders  
23 outstanding at the time of issuance;

24 (2) the payee on the check or order is a licensed  
25 distributor, licensed supplier, or permissive supplier; and

26 (3) the payment is for an obligation or debt that  
27 includes a tax under this chapter to be collected by the licensed

1 distributor, licensed supplier, or permissive supplier.

2 (d) A person who makes payment on an obligation or debt that  
3 includes a tax under this chapter and pays with an insufficient  
4 funds check or similar sight order, as defined by Section 1.07,  
5 Penal Code, issued to a licensed distributor, licensed supplier, or  
6 permissive supplier may be held liable for a penalty equal to the  
7 total amount of tax not paid to the licensed distributor, licensed  
8 supplier, or permissive supplier.

9 SECTION 13. The change in law made by this Act applies only  
10 to an offense committed on or after the effective date of this Act.  
11 An offense committed before the effective date of this Act is  
12 governed by the law in effect on the date the offense was committed,  
13 and the former law is continued in effect for that purpose. For  
14 purposes of this section, an offense was committed before the  
15 effective date of this Act if any element of the offense occurred  
16 before that date.

17 SECTION 14. This Act takes effect September 1, 2013.

S.B. No. 821

David Dewhurst  
President of the Senate

Joe Straus  
Speaker of the House

I hereby certify that S.B. No. 821 passed the Senate on April 4, 2013, by the following vote: Yeas 31, Nays 0. \_\_\_\_\_

Atsuy Spaw  
Secretary of the Senate

I hereby certify that S.B. No. 821 passed the House on May 8, 2013, by the following vote: Yeas 147, Nays 0, two present not voting. \_\_\_\_\_

Robert Nancy  
Chief Clerk of the House

Approved:

24 MAY '13

Date

RICK PERRY  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
6:00 PM O'CLOCK

MAY 24 2013

[Signature]  
Secretary of State