

BILL ANALYSIS

C.S.H.B. 3365
By: Pitts
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law addresses the issue of hot checks, or paper transactions, but does not address insufficiently funded forms of sight orders, including certain electronic funds transfers such as electronic debit and automatic bank drafts, or hot drafts. Under current law, district and county attorneys lack the authority to file charges against individuals or corporations that submit insufficiently funded accounts for electronic funds transfers. Interested parties assert that legislation is needed to update Texas law with respect to the electronic transfer of funds in modern business transactions and to provide prosecutors the authority to prosecute individuals who pay with hot drafts. C.S.H.B. 3365 seeks to address this issue by updating terms in statutes regarding theft or fraud or other deceptive practices to encompass electronic funds transfers.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3365 amends the Penal Code, Business & Commerce Code, Code of Criminal Procedure, Government Code, and Tax Code to replace references to a check with references to a check or sight order in provisions relating to the prosecution of certain criminal offenses involving theft or fraud or other deceptive practices.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3365 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 31.03, Penal Code, is amended by amending Subsection (e) and adding Subsection (e-1) to read as follows:
(e) Except as provided by Subsection (f), an offense under this section is:
(1) a Class C misdemeanor if the value of the property stolen is less than:
(A) \$50; or

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

(B) \$20 and the defendant obtained the property by issuing or passing a payment device [~~check or similar sight order~~] in a manner described by Section 31.06;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is:

(i) \$50 or more but less than \$500; or

(ii) \$20 or more but less than \$500 and the defendant obtained the property by issuing or passing a payment device [~~check or similar sight order~~] in a manner described by Section 31.06;

(B) the value of the property stolen is less than:

(i) \$50 and the defendant has previously been convicted of any grade of theft; or

(ii) \$20, the defendant has previously been convicted of any grade of theft, and the defendant obtained the property by issuing or passing a payment device [~~check or similar sight order~~] in a manner described by Section 31.06; or

(C) the property stolen is a driver's license, commercial driver's license, or personal identification certificate issued by this state or another state;

(3) a Class A misdemeanor if the value of the property stolen is \$500 or more but less than \$1,500;

(4) a state jail felony if:

(A) the value of the property stolen is \$1,500 or more but less than \$20,000, or the property is less than 10 head of sheep, swine, or goats or any part thereof under the value of \$20,000;

(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave, including property that is a military grave marker;

(C) the property stolen is a firearm, as defined by Section 46.01;

(D) the value of the property stolen is less than \$1,500 and the defendant has been previously convicted two or more times of any grade of theft;

(E) the property stolen is an official ballot or official carrier envelope for an election;

or

(F) the value of the property stolen is less than \$20,000 and the property stolen is:

(i) aluminum;

(ii) bronze;

(iii) copper; or

(iv) brass;

(5) a felony of the third degree if the value

of the property stolen is \$20,000 or more but less than \$100,000, or the property is:

(A) cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, stolen during a single transaction and having an aggregate value of less than \$100,000; or

(B) 10 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than \$100,000;

(6) a felony of the second degree if:

(A) the value of the property stolen is \$100,000 or more but less than \$200,000; or

(B) the value of the property stolen is less than \$200,000 and the property stolen is an automated teller machine or the contents or components of an automated teller machine; or

(7) a felony of the first degree if the value of the property stolen is \$200,000 or more.

(e-1) In this section, "payment device" has the meaning assigned by Section 3.506, Business & Commerce Code.

SECTION 2. Section 31.04(g), Penal Code, is amended to read as follows:

(g) It is a defense to prosecution under this section that:

(1) the defendant secured the performance of the service by giving a postdated payment device, as defined by Section 3.506, Business & Commerce Code, [~~post-dated check or similar sight order~~] to the person performing the service; and

(2) the person performing the service or any other person presented the payment device [~~check or sight order~~] for payment before the date on the payment device [~~check or sight order~~].

SECTION 3. The heading to Section 31.06, Penal Code, is amended to read as follows:

Sec. 31.06. PRESUMPTION FOR THEFT BY PAYMENT DEVICE [~~CHECK~~].

SECTION 4. Sections 31.06(a), (b), and (f), Penal Code, are amended to read as follows:

(a) If the actor obtained property or secured performance of service by issuing or passing a payment device, as defined by Section

No equivalent provision.

SECTION 1. The heading to Section 31.06, Penal Code, is amended to read as follows:

Sec. 31.06. PRESUMPTION FOR THEFT BY CHECK OR SIMILAR SIGHT ORDER.

SECTION 2. Section 31.06(a), Penal Code, is amended to read as follows:

(a) If the actor obtained property or secured performance of service by issuing or passing a check or similar sight order for the

3.506, Business & Commerce Code, [~~check or similar sight order~~] for the payment of money, when the issuer did not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the payment device [~~check or order~~] as well as all other payment devices [~~checks or orders~~] then outstanding, it is prima facie evidence of the issuer's [~~his~~] intent to deprive the owner of property under Section 31.03 (Theft) including a drawee or third-party holder in due course who negotiated the payment device [~~check~~] or to avoid payment for service under Section 31.04 (Theft of Service) (except in the case of a postdated payment device [~~check or order~~]) if:

(1) the issuer [~~he~~] had no account with the bank or other drawee at the time the issuer [~~he~~] issued the payment device [~~check or order~~]; or

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

(b) For purposes of Subsection (a)(2) or (f)(3), notice may be actual notice or notice in writing that:

(1) is sent by:

(A) first class mail, evidenced by an affidavit of service; or

(B) registered or certified mail with return receipt requested;

(2) is addressed to the issuer at the issuer's address shown on:

(A) the payment device [~~check or order~~];

(B) the records of the bank or other drawee; or

(C) the records of the person to whom the payment device [~~check or order~~] has been issued or passed; and

(3) contains the following statement:

"This is a demand for payment in full for a payment device [~~check or order~~] not paid because of a lack of funds or insufficient funds. If you fail to make payment in full within 10 days after the date of receipt of this notice, the failure to pay creates a presumption for committing an offense, and this matter may be referred for criminal prosecution."

payment of money, when the issuer did not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check or order as well as all other checks or orders then outstanding, it is prima facie evidence of the issuer's [~~his~~] intent to deprive the owner of property under Section 31.03 (Theft) including a drawee or third-party holder in due course who negotiated the check or order or to avoid payment for service under Section 31.04 (Theft of Service) (except in the case of a postdated check or order) if:

(1) the issuer [~~he~~] had no account with the bank or other drawee at the time the issuer [~~he~~] issued the check or sight order; or

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

No equivalent provision.

(f) If the actor obtained property by issuing or passing a payment device [~~check or similar sight order~~] for the payment of money, the actor's intent to deprive the owner of the property under Section 31.03 (Theft) is presumed, except in the case of a postdated payment device [~~check or order~~], if:

- (1) the actor ordered the bank or other drawee to stop payment on the payment device [~~check or order~~];
- (2) the bank or drawee refused payment to the holder on presentation of the payment device [~~check or order~~] within 30 days after issue;
- (3) the owner gave the actor notice of the refusal of payment and made a demand to the actor for payment or return of the property; and
- (4) the actor failed to:
 - (A) pay the holder within 10 days after receiving the demand for payment; or
 - (B) return the property to the owner within 10 days after receiving the demand for return of the property.

SECTION 5. The heading to Section 32.41, Penal Code, is amended to read as follows:
Sec. 32.41. ISSUANCE OF BAD PAYMENT DEVICE [~~CHECK~~].

SECTION 6. Sections 32.41(a), (b), (c), (e), and (f), Penal Code, are amended to read as follows:

- (a) A person commits an offense if the person [~~he~~] issues or passes a payment device, as defined by Section 3.506, Business & Commerce Code, [~~check or similar sight order~~] for the payment of money knowing that the issuer does not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the payment device [~~check or order~~] as well as all other payment devices [~~checks or orders~~] outstanding at the time of issuance.
- (b) This section does not prevent the prosecution from establishing the required knowledge by direct evidence; however, for purposes of this section, the issuer's knowledge of insufficient funds is presumed (except in the case of a postdated payment device [~~check or order~~]) if:

No equivalent provision.

SECTION 3. The heading to Section 32.41, Penal Code, is amended to read as follows:
Sec. 32.41. ISSUANCE OF BAD CHECK OR SIMILAR SIGHT ORDER.

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

No equivalent provision.

(1) the issuer [~~he~~] had no account with the bank or other drawee at the time the issuer [~~he~~] issued the payment device [~~check or order~~]; or

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

(c) Notice for purposes of Subsection (b)(2) may be actual notice or notice in writing that:

(1) is sent by:

(A) first class mail, evidenced by an affidavit of service; or

(B) registered or certified mail with return receipt requested;

(2) is addressed to the issuer at the issuer's address shown on:

(A) the payment device [~~check or order~~];

(B) the records of the bank or other drawee; or

(C) the records of the person to whom the payment device [~~check or order~~] has been issued or passed; and

(3) contains the following statement:

"This is a demand for payment in full for a payment device [~~check or order~~] not paid because of a lack of funds or insufficient funds. If you fail to make payment in full within 10 days after the date of receipt of this notice, the failure to pay creates a presumption for committing an offense, and this matter may be referred for criminal prosecution."

(e) A person charged with an offense under this section may make restitution for the bad payment devices [~~checks~~]. Restitution shall be made through the prosecutor's office if collection and processing were initiated through that office. In other cases restitution may be, with the approval of the court in which the offense is filed:

(1) made through the court; or

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

(f) Except as otherwise provided by this subsection, an offense under this section is a Class C misdemeanor. If the payment

No equivalent provision.

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

(1) made through the court; or

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

No equivalent provision.

device [~~check or similar sight order~~] that was issued or passed was for a child support payment the obligation for which is established under a court order, the offense is a Class B misdemeanor.

SECTION 7. The heading to Section 3.507, Business & Commerce Code, is amended to read as follows:

Sec. 3.507. DELIVERY NOTIFICATION FEE BY HOLDER OF PAYMENT DEVICE [~~CHECK OR SIMILAR SIGHT ORDER~~].

SECTION 8. Sections 3.507(a) and (c), Business & Commerce Code, are amended to read as follows:

(a) On return of a payment device, as defined by Section 3.506, [~~check or similar sight order~~] to the holder following dishonor of the payment device [~~check or sight order~~] by a payor and prior to the payment device [~~check or sight order~~] being referred for prosecution, the holder, the holder's assignee, agent, or representative, or any other person retained by the holder to seek collection of the dishonored payment device [~~check or sight order~~] may charge the drawer or indorser of the payment device [~~check or sight order~~] the cost of delivery notification by registered or certified mail with return receipt requested under Section 31.06 or Section 32.41, Penal Code, as applicable.

(c) This section does not affect any right or remedy to which the holder of a payment device [~~check or similar sight order~~] may be entitled under any rule, written contract, judicial decision, or other statute, including Section 3.506.

SECTION 9. The heading to Article 102.007, Code of Criminal Procedure, is amended to read as follows:

Art. 102.007. FEE FOR COLLECTING AND PROCESSING PAYMENT DEVICE [~~SIGHT ORDER~~].

SECTION 10. Articles 102.007(a), (c), (d), (e), and (g), Code of Criminal Procedure,

No equivalent provision.

SECTION 5. Section 3.507(a), Business & Commerce Code, is amended to read as follows:

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

No equivalent provision.

SECTION 6. The heading to Article 102.007, Code of Criminal Procedure, is amended to read as follows:

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

SECTION 7. Articles 102.007(a) and (e), Code of Criminal Procedure, are amended

are amended to read as follows:

(a) A county attorney, district attorney, or criminal district attorney may collect a fee if the attorney's [his] office collects and processes a payment device, as defined by Section 3.506, Business & Commerce Code, [check or similar sight order] if the payment device [check or similar sight order]:

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

- (A) Section 31.03, Penal Code;
- (B) Section 31.04, Penal Code; or
- (C) Section 32.41, Penal Code; or

(2) is a check or similar sight order that has been forged, as defined by Section 32.21, Penal Code.

(c) The amount of the fee may not exceed:

(1) \$10 if the face amount of the payment device [check or sight order] does not exceed \$10;

(2) \$15 if the face amount of the payment device [check or sight order] is greater than \$10 but does not exceed \$100;

(3) \$30 if the face amount of the payment device [check or sight order] is greater than \$100 but does not exceed \$300;

(4) \$50 if the face amount of the payment device [check or sight order] is greater than \$300 but does not exceed \$500; and

(5) \$75 if the face amount of the payment device [check or sight order] is greater than \$500.

(d) If the person from whom the fee is collected was a party to the offense of forgery, as defined by Section 32.21, Penal Code, committed by altering the face amount of the payment device [check or sight order], the face amount as altered governs for the purposes of determining the amount of the fee.

(e) In addition to the collection fee specified in Subsection (c) of this article, the county attorney, district attorney, or criminal district attorney may collect the fee authorized by Section 3.506, Business & Commerce Code, for the benefit of the holder of a payment device [check] or the holder's [its] assignee, agent, representative, or any other person retained by the holder to seek collection of the payment device [check].

(g) In addition to the collection fee specified in Subsections (b) and (c), the

to read as follows:

(a) A county attorney, district attorney, or criminal district attorney may collect a fee if the attorney's [his] office collects and processes a check or similar sight order, as defined by Section 1.07, Penal Code, if the check or similar sight order:

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

- (A) Section 31.03, Penal Code;
- (B) Section 31.04, Penal Code; or
- (C) Section 32.41, Penal Code; or

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

No equivalent provision.

No equivalent provision.

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

No equivalent provision.

issuer of a payment device [~~check or similar sight order~~] that has been issued or passed as described by Subsection (a)(1) is liable for a fee in an amount equal to the costs of delivering notification by registered or certified mail with return receipt requested. The fee under this subsection must be collected in all cases described by Subsection (a)(1), and on receipt of proof of the actual costs expended, the fee shall be remitted to the holder of the payment device [~~check or similar sight order~~].

SECTION 11. Article 102.0071, Code of Criminal Procedure, is amended to read as follows:

Art. 102.0071. JUSTICE COURT DISHONORED PAYMENT DEVICE [~~CHECK~~]. On conviction in justice court of an offense under Section 32.41, Penal Code, or an offense under Section 31.03 or 31.04, Penal Code, in which it is shown that the defendant committed the offense by issuing or passing a payment device, as defined by Section 3.506, Business & Commerce Code, [~~check~~] that was subsequently dishonored, the court may collect from the defendant and pay to the holder of the payment device [~~check~~] the fee permitted by Section 3.506, Business & Commerce Code.

SECTION 12. Sections 102.101 and 102.102, Government Code, are amended to read as follows:

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

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$4;

SECTION 8. Article 102.0071, Code of Criminal Procedure, is amended to read as follows:

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

SECTION 9. Sections 102.101 and 102.102, Government Code, are amended to read as follows:

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

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) . . . \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) . . . one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) . . . \$4;

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

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

(7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored payment device [check] (Art. 102.0071, Code of Criminal Procedure) . . . not to exceed \$30;

(8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and

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

Sec. 102.102. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: BUSINESS & COMMERCE CODE. The clerk of a justice court shall collect from a defendant a court cost not to exceed \$30 under Section 3.506, Business & Commerce Code, on conviction of certain offenses involving issuing or passing a subsequently dishonored payment device [check].

SECTION 13. The heading to Section 162.409, Tax Code, is amended to read as follows:

Sec. 162.409. ISSUANCE OF BAD PAYMENT DEVICE [CHECK] TO LICENSED DISTRIBUTOR, LICENSED SUPPLIER, OR PERMISSIVE SUPPLIER.

SECTION 14. Sections 162.409(a) and (d), Tax Code, are amended to read as follows:

(a) A person commits an offense if:

(1) the person issues or passes a payment device, as that term is defined by Section 3.506, Business & Commerce Code, [check or similar sight order] for the payment of money knowing that the issuer does not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the payment device [check or order] as well as all other payment devices [checks or orders] outstanding at the time of issuance;

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

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

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

(8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) . . . not to exceed \$7; and

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

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

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

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

SECTION 11. Sections 162.409(a) and (d), Tax Code, are amended to read as follows:

(a) A person commits an offense if:

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

(2) the payee on the ~~payment device [check or order]~~ is a licensed distributor, licensed supplier, or permissive supplier; and
(3) the payment is for an obligation or debt that includes a tax under this chapter to be collected by the licensed distributor, licensed supplier, or permissive supplier.
(d) A person who makes payment on an obligation or debt that includes a tax under this chapter and pays with an insufficient funds ~~payment device [check]~~ issued to a licensed distributor, licensed supplier, or permissive supplier may be held liable for a penalty equal to the total amount of tax not paid to the licensed distributor, licensed supplier, or permissive supplier.

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

SECTION 16. This Act takes effect September 1, 2013.

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

SECTION 12. Same as introduced version.

SECTION 13. Same as introduced version.