

INSUFFICIENT CHECK POLICY

Swanzy Business Proprietor
Town of Swanzy
Swanzy, NH

RE: Swanzy Police return check policy

Dear Business Owner:

As you know, the Town of Swanzy is the second largest town in Cheshire County and is growing rapidly. For the last few years this agency has been inundated with returned check complaints from local businesses. It is becoming increasingly difficult for the Swanzy Police Department to investigate all bad checks due to the volume of cases we handle.

With the constant changes and updates to the laws, it becomes increasingly more technical for police to obtain account information. Currently police file subpoenas for account information and in some cases apply for search warrants to obtain any videos or other records from the bank on individuals. However, out of state banks do not have to comply to the subpoenas from the State of New Hampshire.

Proprietors should understand that if they enter into a verbal or written agreement to make payments with an individual who has issued a bad check, the writing of that bad check will no longer be a criminal act because of the agreement with that individual: It then becomes a civil process and you (the victim) would have to see restitution through small claims Courts. Therefore, in order to provide the best possible service for the Town of Swanzy, the following policies are being implemented and must be adhered to for successful prosecution:

1. Swanzy Police Department must receive the returned check no later than thirty (30) days after the bank for insufficient funds or a closed account has returned said check. If the check is provided to the police after the thirty days, the Swanzy Police Department will not investigate any further. The victim may seek civil restitution as stated above.
2. The Swanzy Police Department will not handle any check under \$50.00. We will accept aggregated checks written within thirty days of the first check that was issued totaling \$50.00 or more. Proprietors and businesses are encouraged to maintain a list of individuals who have uttered bad checks in their stores and have not made good on them. Hopefully this action will "red-flag" future bad checks from being passed again in the store.
3. The Swanzy Police Department will not accept out of state bad checks, unless the check is in the amount of \$500.00 or over and passed in the Town of Swanzy, NH. This would constitute a felony.
4. Business owners must mail out a fourteen (14) day demand letter for payment within the 30 day time frame. Contact the police department if a demand letter is needed.
5. The Swanzy Police Department will need original checks, letters, and receipts for a successful prosecution.
6. Demand letters need to be sent out via certified mail, return receipt requested, to insure a signature or non-compliance.

Sincerely,

Lt. Thomas De Angelis
Swanzy Police Department

NOTICE AND DEMAND FOR PAYMENT OF DISHONORED CHECK

To: _____

You are hereby notified that a check presented by you to the undersigned, dated _____, drawn on the _____ of _____, in the amount of \$_____, bearing the signature of _____ has been returned unpaid with the notation that payment has been refused because of _____.

Your attention is called to the **Revised Statutes Annotated of the State of New Hampshire** which are set forth below. Demand is hereby made for the payment of the above mentioned check. **Failure to pay this check within fourteen days of the date of this notice** will result in the undersigned taking further action as allowed by law. The check and a copy of this notice will be turned over to the Swanzey Police Department for prosecution in the appropriate court of jurisdiction.

DO NOT IGNORE THIS NOTICE

Please remit payment, to include service and handling charges, for a total amount of \$_____, and send it to _____.

Extracts from New Hampshire Revised Statutes Annotated relative to the issuance of bad checks and the penalty thereof:

RSA 638:4 Issuing bad checks

I. A person is guilty of issuing a bad check if he issues or passes a check for the payment of money knowing or believing that it will not be paid by the drawee and payment is refused by the drawee.

II. For the purpose of this section, as well as in any prosecution for the theft committed by means of a bad check, a person who issues a check for which payment is refused by the drawee is presumed to know that such check would not be paid if he had no account with the drawee at the time of issue.

III. It is an affirmative defense that the actor paid the amount of the check, together with all costs and protest fees, to the person to whom it was due within **fourteen days** after having received notice that the payment was refused.

Signature

Date