



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

IDENTIFYING INFO. ON CHECKS

**House Bill 4209 as passed by the House
Second Analysis (10-22-96)**

**Sponsor: Rep. Gregory E. Pitoniak
Committee: Commerce**

THE APPARENT PROBLEM:

When someone purchases an item from a retail establishment using a personal check, sometimes they are required by the clerk to include certain identifying information on it, such as a credit card number or Social Security number. Apparently, this information may help the retailer better determine the creditworthiness of the customer and whether he or she is actually who he or she claims to be. Some people, however, believe this practice may work to prevent some people from paying for merchandise via a personal check simply because they cannot supply the requested information--perhaps because they do not have a Social Security number or choose not to carry (or cannot qualify for) a credit card. Moreover, it is feared that those persons who decide to supply this personal information may be taking a risk that someone else could use it for fraudulent purposes. Several other states have laws barring retailers and others from requiring such information to be included on a check as a condition of its acceptance, and some believe Michigan should do the same.

THE CONTENT OF THE BILL:

The bill would amend the Revised Judicature Act to prohibit persons from requiring, as a condition of accepting a check, that a Social Security or credit card number be written on the check. The bill, however, would not prohibit 1) a credit granting institution from requiring its own account number to be recorded on a check; 2) a governmental entity from requiring a person to record his or her Social Security number on a check used to pay a tax liability; or 3) a person that had agreed to accept a check from a credit card holder (if it was guaranteed by the credit card issuer) from requiring the credit card number and expiration date to be recorded on the check. The bill would take effect February 1, 1997.

The bill further specifies that certain information on a check would be prima facie evidence of the identity of the drawer of a check, draft, or order for the payment of money that was made in violation of provisions in the act governing the writing of bad checks, including the following:

* drawer information, if obtained from the drawer and recorded on the check, draft, or order, that included his or her name, address, home or work telephone number, or driver's license number, state identification card number, or military identification card number;

* the drawer's signature, if witnessed and initialed by the person receiving the check, draft, or order.

Someone who violated the bill would be guilty of a civil infraction and could be fined up to \$500, except for cases involving a retail sale--in which case the business owner would be liable for the violation and subject to the penalty provisions.

MCL 600.2963

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would result in an undetermined increase in revenues, which would be distributed to libraries. (10-22-96)

ARGUMENTS:

For:

The bill would prohibit retail establishments and other businesses from requiring a customer to include on a personal check used for a purchase his or her Social Security number or a credit card number, which some businesses at present sometimes will require before accepting a check. Requiring information of this sort may prevent some people from being able to use a check in the unlikely event that they do not have a Social Security number; more commonly, people may not own a credit card, whether by choice or because they cannot qualify for one. But even someone who could provide this personal information would be taking a chance that someone else might surreptitiously use it to access the owner's credit or otherwise defraud the person. The bill would provide for a \$500 fine to be imposed on someone who violated its provisions, and further specifies that the owner of a retail establishment would be the one held liable when such a violation occurred. Also, the bill

House Bill 4209 (10-22-96)

would provide exceptions to the prohibition against requiring such information on a check when it was written to pay an amount on an account held with a credit granting institution, to pay a government for a tax liability, or when it involved use of special checks issued by a credit granting institution. At least 20 other states have adopted similar laws.

For:

The bill would add language specifying that certain information recorded on a check -- name, address, telephone number, and so forth -- would be "prima facie" evidence of the check writer's identity. According to retailers, this would aid in subsequent collections on bad checks, using the available civil procedures in state law.

POSITIONS:

The Michigan Retailers Association supports the bill. (10-16-96)

The Michigan Consumer Federation supports the bill. (10-16-96)

Analyst: T. Iversen

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.