

1980 WL 120731 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 20, 1980

\*1 The Honorable William E. Knotts, Jr.  
Senator  
District No. 8  
15 West Street  
Williston, South Carolina 29853

Dear Senator Knotts:

You have requested an opinion from this Office as to whether or not a person convicted of violating the bad check law could be disenfranchised for obtaining goods or money under false pretenses.

The offense of obtaining goods or money under false pretenses has been codified in this state at [Section 16-13-240 of the South Carolina Code of Laws, 1976](#). In order to prove this offense, it must be shown that the defendant made a false representation, with the intent to defraud, knowledge of the falsity of the representation, and that another person relied upon this representation to his detriment. 2 [Wharton's Criminal Law](#), Section 582.

South Carolina has also codified a fraudulent check law, South Carolina Code of Laws, 1976, Section 34-11-60, *et. seq.* This statute was substantially rewritten in 1979 by the General Assembly and now establishes by statute the necessary fraudulent intent to obtain property by means of a fraudulent check anytime a check does not clear the bank to which it is presented and fifteen days after the drawer has received notification that the check has not been honored.

This 1979 statute substantially differs from the requirements necessary to prove the related crime of obtaining goods or money under false pretenses, i.e. it is not necessary to prove intent or a false representation that the check is good.

The law in this area indicates that there has developed two separate bodies of law as to proving a violations of a state's fraudulent check law and proving the offense of obtaining goods or money under false pretenses. 2 [Wharton's Criminal Law](#), Section 585. The authorities state that the conflict has been solved in most states by the passing of a worthless check statute. 32 Am. Jur. 2d [False Pretenses](#) Section 19, 2 [Wharton's Criminal Law](#), Sections 585, 612.

Since the 1979 statute expressly states the requirements that will be necessary to establish a violation of the fraudulent check law, and as this standard differs from that necessary to prove the offense of obtaining goods under false pretenses, a violation of the fraudulent check law would not be the same as being convicted on obtaining goods or money under false pretenses. Therefore, a person convicted of violating the fraudulent check law would not be disenfranchised.

Yours very truly,

Treva G. Ashworth  
Senior Assistant Attorney General

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