



September 2023

Cass County Merchants

**RE: Criminal Prosecution of Nonsufficient Funds (NSF) and Closed Account Checks
-2013 Update**

Dear Merchant:

I write to inform you of a change in the policy of the Cass County State's Attorney's Office with respect to non-sufficient fund and closed account checks.

The enclosed updated policy and forms reflect 2013 Legislative changes and are effective as of **August 1, 2013. Please discard all prior policies and forms.**

1. Cass County State's Attorney Policy on Prosecution of Non-sufficient Fund and Closed Account Checks (Rev. June 2013): This document explains how this office processes bad check matters. It contains significant changes from the previous revision, specifically in **Minimum Dollar Amount**. I encourage you to read it thoroughly.
2. Notice of ID Requirement for Checks: **For law enforcement purposes, the merchant is required to review the ID and date of birth on all checks that may be submitted to our office for prosecution.** From time-to-time, some customers may complain about a merchant requiring them to produce ID. In those cases, the merchant may wish to show the customer there is a law enforcement reason for the requirement. Accordingly, for the merchant's assistance, I have enclosed a brief Notice of ID Requirement. While the ID requirement is mandatory, the use of the enclosed Notice is entirely at the merchant's discretion. A merchant may wish to keep that notice at the cash register, so he/she may direct a concerned customer's attention to that language.
3. Notice of Dishonored Check (example): North Dakota law requires a Notice of Dishonored Check, substantially similar to the enclosed form, be sent prior to presenting a check to the State's Attorney's Office for prosecution. The enclosed form is provided as an example.
4. Affidavit of Service by Mail (example): North Dakota law requires proof of mailing a Notice Of Dishonored Check. That proof may be made by return receipt or by an Affidavit of Mailing signed by the individual making the mailing. The enclosed form is provided as an example.
5. Affidavit of Insufficient Funds or Closed Account Checks: This form must be used for any check submitted to the Cass County State's Attorney's Office for consideration of prosecution. A separate affidavit must be completed for each check, even if multiple checks on the same account are submitted to our office.

The enclosed policies and forms are intended to balance the merchant's needs, our prosecutorial needs and the statutory requirements. The policy is similar to these used in other urban areas within our region. While the enclosures are similar to our previous ones, we have made some changes. I encourage you to review the policy and ensure your practice is consistent with it.

From time-to-time we receive questions about "pay day" loans. The 2001 North Dakota Legislature passed requirements governing those transactions. The enclosed policy is not meant to address those situations. The statutes generally prohibit us from prosecuting postdated checks under the "bad check" statutes.

The enclosures apply to those merchants who choose to submit bad checks to our office for prosecution. If you choose not to submit checks for prosecution, then you are not required to comply with our office policy.

Charlotte Eversvik is the check specialist in our office. If you have questions regarding the enclosures or our policy, then please feel free to contact Charlotte at (701) 241-5855 or (701) 241-5850. Thank you.

Sincerely,



Kimberlee J. Hegvik
Cass County State's Attorney

Enclosures:

1. Policy on Criminal Prosecution of Insufficient Funds and Closed Account Checks
2. Notice of ID Requirement for Checks
3. Notice of Dishonored Check
4. Affidavit of Service by Mail
5. Affidavit of Insufficient Funds or Closed Account Checks



State's Attorney's Office

Kimberlee J. Hegvik
State's Attorney

September 2023

RE: Notice of ID Requirement for Checks

To Whom it May Concern:

To assist law enforcement's efforts, the Cass County State's Attorney's Office requests area merchants verify photographic identification (ID) of anyone submitting a check for payment to that merchant. It further requests the merchant to write certain ID information on the check. These steps provide a measure of protection for everyone that both writes and accepts checks, and assists our office with the prosecution of "bad checks".

Please extend your cooperation to Cass County merchants when they ask for your ID. Thank you.

Sincerely,

Kimberlee J. Hegvik
Cass County State's Attorney