

1 HB765
2 120734-1
3 By Representative Morrow
4 RFD: Judiciary
5 First Read: 25-MAR-10

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8 SYNOPSIS: Under existing law, negotiating a worthless
9 negotiable instrument is a Class A misdemeanor.

10 This bill would provide that the crime would
11 be a Class C felony if the negotiable instrument is
12 for an amount of \$1,000 or more and if it is given
13 to a livestock market for the purchase of
14 livestock.

15 Amendment 621 of the Constitution of Alabama
16 of 1901, now appearing as Section 111.05 of the
17 Official Recompilation of the Constitution of
18 Alabama of 1901, as amended, prohibits a general
19 law whose purpose or effect would be to require a
20 new or increased expenditure of local funds from
21 becoming effective with regard to a local
22 governmental entity without enactment by a 2/3 vote
23 unless: it comes within one of a number of
24 specified exceptions; it is approved by the
25 affected entity; or the Legislature appropriates
26 funds, or provides a local source of revenue, to
27 the entity for the purpose.

1 The purpose or effect of this bill would be
2 to require a new or increased expenditure of local
3 funds within the meaning of the amendment. However,
4 the bill does not require approval of a local
5 governmental entity or enactment by a 2/3 vote to
6 become effective because it comes within one of the
7 specified exceptions contained in the amendment.

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9 A BILL
10 TO BE ENTITLED
11 AN ACT

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13 To amend Section 13A-9-13.1 of the Code of Alabama
14 1975, relating to the crime of negotiating a worthless
15 negotiable instrument; to increase the penalties for certain
16 checks given to a livestock market for the purchase of
17 livestock; and in connection therewith would have as its
18 purpose or effect the requirement of a new or increased
19 expenditure of local funds within the meaning of Amendment 621
20 of the Constitution of Alabama of 1901, now appearing as
21 Section 111.05 of the Official Recompilation of the
22 Constitution of Alabama of 1901, as amended.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 13A-9-13.1 of the Code of Alabama
25 1975, is amended to read as follows:

26 "§13A-9-13.1.

1 "(a) A person commits the crime of negotiating a
2 worthless negotiable instrument if the person negotiates or
3 delivers a negotiable instrument for a thing of value and with
4 the intent, knowledge, or expectation that it will not be
5 honored by the drawee.

6 "(b) For the purposes of this section, it is prima
7 facie evidence that the maker or drawer intended, knew, or
8 expected that the instrument would not be honored in any of
9 the following instances:

10 "(1) The maker or drawer had no account with the
11 drawee at the time the negotiable instrument was negotiated or
12 delivered, as determined according to Section 7-3-503(2).

13 "(2) Payment was refused by the drawee for lack of
14 funds, upon presentation within 30 days after delivery, and
15 the maker or drawer shall not have paid the holder thereof the
16 amount due thereon, together with a service charge of not more
17 than (fill in appropriate amount as provided by law), within
18 10 days after receiving written notice from the holder of the
19 instrument that payment was refused upon the instrument, as
20 provided in Section 13A-9-13.2.

21 "(3) Notice that payment was refused is mailed by
22 certified or registered mail and is returned undelivered to
23 the sender, when the notice is mailed within a reasonable time
24 after dishonor to the address printed on the instrument or
25 given by the maker or drawer at the time of issuance of the
26 instrument.

1 "(c) Negotiating a worthless negotiable instrument
2 is a Class A misdemeanor except negotiating a worthless
3 negotiable instrument is a Class C felony if the person in
4 committing the crime negotiates or delivers a worthless
5 negotiable instrument in the amount of one thousand dollars
6 (\$1,000) or more to a livestock market for the purchase of
7 livestock.

8 "(d) The definition of "negotiable instrument" in
9 Section 7-3-104 applies to this section and Sections
10 13A-9-13.2 and 13A-9-13.3.

11 "(e) The definition of "negotiation" in Section
12 7-3-202 applies to this section and Sections 13A-9-13.2 and
13 13A-9-13.3.

14 "(f) The definition of "delivery" in Section
15 7-1-201(14) applies to this section and Sections 13A-9-13.2
16 and 13A-9-13.3."

17 Section 2. Although this bill would have as its
18 purpose or effect the requirement of a new or increased
19 expenditure of local funds, the bill is excluded from further
20 requirements and application under Amendment 621, now
21 appearing as Section 111.05 of the Official Recompilation of
22 the Constitution of Alabama of 1901, as amended, because the
23 bill defines a new crime or amends the definition of an
24 existing crime.

25 Section 3. This act shall become effective on the
26 first day of the third month following its passage and
27 approval by the Governor, or its otherwise becoming law.

