

## **BILL ANALYSIS**

Senate Research Center  
77R7794 ATP-F

S.B. 1748  
By: Haywood  
Natural Resources  
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As Filed

### **DIGEST AND PURPOSE**

Currently, the Penal Code establishes certain criteria for the prosecution of an individual who obtains goods or services by passing a check that is later dishonored by the bank. Under current interpretation of the law, the exchange of property and issuance of the check is required to be “contemporaneous”; otherwise it is assumed that the person taking the check has extended credit. Because federal rules mandate a slight delay between sale of the livestock and receipt of the check, the recipient of a dishonored check cannot generally prosecute the issuer of the check. As proposed, S.B. 1748 amends the Penal Code to clarify that in the case of livestock, “passing a check” can occur up to seven days after the sale of livestock.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 31.06, Penal Code, by amending Subsection (b) and adding Subsections (g) through (i), as follows:

- (b) Authorizes notice, for purposes of Subsection (a)(2), (f)(3), or (g)(2), to be actual notice or notice in writing that meets certain conditions.
- (g) Provides that it is prima facie evidence of an actor’s intent, under Section 31.03, to deprive an owner of property, including a drawee or a third party holder in due course who negotiated the check or order, if certain conditions are met.
- (h) Provides that Subsection (g) does not apply to a postdated check or order for the payment later than the seventh day after the actor takes possession of the livestock, exotic livestock, or exotic fowl.
- (f) Provides that “livestock,” “exotic livestock,” and “exotic fowl” have the meanings assigned to those terms by Section 142.001 (Definitions), Agriculture Code.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2001.