

Members Present:

Chairman Hayes
Vice Chairman Stewart
Mr. Banner
Mr. Brady
Mr. Coulter
Mr. Fielding
Mr. Horn
Mr. Malone
Mr. Polish
Mr. Prengaman
Mr. Sena

Members Absent:

None

Guests Present:

R. E. Cahill	Nevada Resort Association
Jordon Crouch	Nevada Bankers Association
Ray Early	Central Credit Corporation
A. J. Feroah	Reno Police Department
John Gianotti	Harrah's
Alan Glover	Assemblyman
Geno Menchetti	Deputy Attorney General
Rey Twichell	Sparks Nugget
Carole Vilardo	Nevada Retail Association

Chairman Hayes called the meeting to order at 9:10 a.m.

ASSEMBLY BILL 389

Provides penalty for stopping payment on a check under certain circumstances.

Assemblyman Glover, sponsor of the bill, said that the work in support of the bill had been done by merchants and representatives of the gaming industry. He said that the gaming industry is really getting ripped off by people who are writing checks for cash and then stopping payment on the checks. He said this bill is addressing an area that really needs to be addressed to protect the citizens in the State. He said that Carson City District Attorney David Small had authorized him to relay his support of this legislation.

Ms. Vilardo spoke in favor of the bill saying that for the first time a merchant would be able to have recourse in filing charges against a person that purchased merchandise but stopped payment on the check.

Ms. Vilardo said that she had only been stuck with two checks that she could not collect in her business. She said that the first one occurred in the manner as addressed by this bill. She said it was nine or ten days after the merchandise was purchased that the check came back with payment stopped. She said she had not received any returned merchandise. She went to the police department to file a complaint, and she was told that there was no provision in the law for making such a complaint. She said that about 17 individuals took checks from this particular individual on the same weekend, and the man thereafter moved to New Orleans. The Nevada merchants had no recourse.

Ms. Vilardo said there was a slight problem on Line 14 of the bill regarding the time limit of 24 hours for a person to stop payment on his check after it is written before the bill would be applicable. She said the problem was if merchandise was purchased on a Friday evening, and the purchaser notified the bank on Monday morning to stop payment of the check. This would be more than 48 hours. She said she would be in favor of deleting the time provision.

Mr. Malone said he would agree with Ms. Vilardo that the time provision should be deleted.

Mr. Prengaman said he had a problem with Subsection 2, Items a and b. He said that under Item a, if a person asks his bank to stop payment of a check within 24 hours after writing the check, it seemed to be an admission of guilt.

Mr. Coulter asked what protection the merchants had through check cashing cards. Ms. Vilardo said that payment can be stopped on a check where a check cashing card has been used. She said also that if the merchants waited for everyone to get check cashing cards, none of them would do business.

Mr. Horn said he was worried about the "little guy" who might be caught in a vindictive struggle with a merchant. He said he did not think this was the intent, but it could happen.

Mr. Crouch said he could sympathize with the people who received checks back with the notation of payment stopped. He said, however, that the banking industry was caught in the middle of this situation. He said he had recently checked with one bank in the Reno area, and this bank had 8655 stop payment orders on file. He said that customers are asked the reason for stopping payment. He said sometimes the customer will say, "None of your business," or will give an answer that is not factual. He said that customers have the right to stop payment on checks they have written for whatever reason. If a person has used their check cashing card, they cannot stop payment on the check. He said he did not want to see the banks in the middle of the person who gave the check and the person who received the check.

Mr. Horn said that it would seem that the way the merchants could safeguard themselves would be to require a check cashing card. Mr. Crouch said that the card only guarantees a check for up to \$100 for cash and up to \$500 when it is used to purchase merchandise.

Mr. Cahill said that it would not be the intent of the gaming industry through this bill to legalize gaming debts. He said it was not his intent to testify on this measure, but he said the bill would be beneficial not only to casinos but also to those who operate concessions in casinos.

Mr. Feroah said that he had just completed 30 years on the Reno Police Department, 20 of which were spent working on bunko fraud and bad check cases. He related that individuals can purchase merchandise with a check and then turn around and stop payment on the check. There is no remedy for these cases. He said his own feeling was that there should be some obligation on the part of the person who has made this type of purchase.

Mr. Malone suggested that this problem was addressed in NRS 205.375 concerning a false written statement to obtain property or credit. Mr. Feroah said that Judge Zenoff had ruled in a case that where a check was involved this particular statute would not apply.

Mr. Early said he had researched his records at his business for the last five months, and he had items that represented a total of \$303,704.10 in stop payment items, mainly involving the gaming industry. He said that this problem had seemed to have reached an epidemic stage with the gaming industry being the victim. He related that one particular individual that he had knowledge of had \$32,000 in stop payment items in six different casinos.

Mr. Early said that casinos are not protected by existing laws regarding stop payment checks, and those in northern Nevada felt that the provisions as outlined in this bill would help this situation.

Mr. Menchetti said that members of the law enforcement community had considered this type of legislation and had voted in favor of it. He said that presently a person that writes a check for \$200 and has \$50 in their account can be prosecuted. However, if a person has \$200 in the account and writes a check for \$200 and stops payment on the check with no reimbursement to the merchant there is no crime.

Mr. Menchetti said that in regard to Mr. Prengaman's concerns on Subsection 2, Items a and b, the presumption of fraud would be fulfilled only by meeting the conditions as stated in a, b, and c. He said that intent to defraud is shown by using the circumstances surrounding the evidence.

Mr. Menchetti said that Subsection 3 of the bill was not part of the language requested in the bill request. He suggested that the language in that subsection was contrary to the existing law with regard to banking records. He said that if present law was used to attempt to prosecute a stop payment check case, it would have to be proven that at the time of the offering of the check that there was a present intent to defraud.

Mr. Gianotti said that the problem addressed by this bill is on the rise, and he said that Harrah's supported the bill.

Mr. Twichell presented to the Committee correspondence he had concerning a \$3,000 check that was cashed by the Sparks Nugget and was returned with a stop payment notation (Exhibit A).

Mr. Twichell said that a businessman had left the Nugget \$8,000 worth of stop payment checks. He said, "We evened the score," and he said that the man's haberdasher shop burned down with no insurance coverage.

Mr. Twichell said that the State of Nevada is losing the revenue from the 5% gaming tax on the checks that are returned with stop payment notations.

ASSEMBLY BILL 456

Increases threshold of amount required for felony in crimes against property.

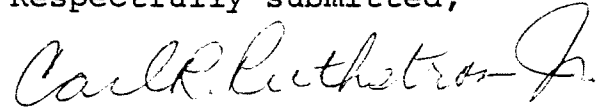
Ms. Vilaro said that merchants have a major problem with that bill. She said that if an individual had \$250 worth of merchandise taken from them, it would be a felony. She said that in comparison for a felony to be committed against her as a merchant, there would have to be \$500 in merchandise stolen.

Ms. Vilaro said that she is required to show proof of what she paid for a particular item to establish its value in a shoplifting case. She said that freights costs are not considered, and the time spent by her employees in getting the material ready for sale and on the racks is not considered. She said that what really seemed unfair about this is that a person can pay the price she has placed on an item, walk out of the store and have the item stolen, and be able to file charges against a suspect in relation to the amount that was paid for the item.

Mr. Stewart said that in most jurisdictions, the value considered is fair market value. Ms. Vilaro said she could see being challenged on fair market value.

The meeting was adjourned at 10:25 a.m.

Respectfully submitted,



Carl R. Ruthstrom, Jr.
Secretary

INTER OFFICE MEMO

DATE: August 10, 1977

FROM: Rey Twichell

TO: Board of Directors
Nevada Check Investigators Association
Don Zuliani
Abe Feroah
Ray Early
Sam Eito

At the next meeting of the Board of Directors, I would like to discuss the Nevada Revised Statute 193.190 which states,

"In every crime or public offense there must exist a union, or joint operation of act and intention, or criminal negligence."

I refer to the letter I received from the Office of the Attorney General for the State of Nevada regarding a matter involving a \$3,000.00 check which was cashed here at the Nugget by a James R. Fields.

I refer to the next to the last paragraph in this letter where the Deputy Attorney General states that he would work very carefully with the Association in modifying or changing this aspect of the Law as I feel it is absolutely for the benefit of the thief and a detriment to the legitimate business in this State.



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
CAPITOL COMPLEX
SUPREME COURT BUILDING
CARSON CITY 89710

ROBERT LIST
ATTORNEY GENERAL

August 9, 1977

Mr. Rey Twichell
Credit Manager
John Ascuaga's Nugget
Box 797
Sparks, Nevada 89431

Dear Mr. Twichell:

This is in reply to your letter of July 15 with regard to a \$3,000 check cashed at the Sparks Nugget by James R. Fields.

In reviewing the situation, we have contacted the Washoe County District Attorney's office and received a statement of the facts from them. Regrettably, we must concur in their conclusion that no prosecutable crime has been committed against the Sparks Nugget in this instance. The facts as I understand them are these: When the check was cashed by Mr. Fields, there was sufficient money in the account to cover that check. This would preclude any charges under the "drawing a fraudulent check" section of the statutes. Further, after cashing the check, Mr. Fields gambled and lost the money. He then called the firm issuing the check and asked them to stop payment, telling them he had lost it. They did so. Nevada Revised Statute 193.190 states,

"In every crime or public offense there must exist a union, or joint operation of act and intention, or criminal negligence."

To prosecute Mr. Fields under NRS 205.380, Obtaining money by false pretenses, the District Attorney would have to show that Mr. Fields knowingly and designedly, with the intent to

Mr. Rey Twichell
August 9, 1977
Page Two


defraud, cashed that check. That would require the District Attorney, who has the burden of proof, to prove that when Mr. Fields originally cashed the check at your establishment, he then intended to stop payment on it and defraud you. The facts appear to be that the intent to stop payment wasn't formed until later.

I regret that this is the state of the law in Nevada, and indicate to you that this office will assist in any way possible to try to modify the law in the next session of the legislature. I know this is of no assistance to you in the present situation. However, it does appear that you would be able to recover the money in a civil action against Mr. Fields.

If you have any further questions with regard to this matter, please don't hesitate to contact me at 885-4166.

Sincerely,

ROBERT LIST
Attorney General

By 
D. G. Menchetti
Deputy Attorney General
Chief, Criminal Division

DGM:lt