

1 SB339  
2 157881-2  
3 By Senator Beason  
4 RFD: Judiciary  
5 First Read: 11-FEB-14

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8 SYNOPSIS: Under existing law, a person commits the  
9 crime of negotiating a worthless negotiable  
10 instrument if he or she negotiates or delivers the  
11 instrument for a thing of value and with the  
12 intent, knowledge, or expectation that it will not  
13 be honored by the drawee.

14 This bill would specify that the term  
15 "negotiable instrument" includes electronic drafts.

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

1 funds, or provides a local source of revenue, to  
2 the entity for the purpose.

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

10  
11 A BILL  
12 TO BE ENTITLED  
13 AN ACT  
14

15 To amend Section 13A-9-13.1, Code of Alabama 1975,  
16 relating to the crime of negotiating a worthless negotiable  
17 instrument; to specify that a negotiable instrument includes  
18 electronic drafts; and in connection therewith would have as  
19 its purpose or effect the requirement of a new or increased  
20 expenditure of local funds within the meaning of Amendment 621  
21 of the Constitution of Alabama of 1901, now appearing as  
22 Section 111.05 of the Official Recompilation of the  
23 Constitution of Alabama of 1901, as amended.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

27 "§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.

3           "(d) The definition of "negotiable instrument" in  
4 Section 7-3-104 applies to this section and Sections  
5 13A-9-13.2 and 13A-9-13.3. For the purposes of this section  
6 and Sections 13A-9-13.2 and 13A-9-13.3, the term "negotiable  
7 instrument" shall include electronic drafts.

8           "(e) The definition of "negotiation" in Section  
9 7-3-202 applies to this section and Sections 13A-9-13.2 and  
10 13A-9-13.3.

11           "(f) The definition of "delivery" in Section  
12 7-1-201(14) applies to this section and Sections 13A-9-13.2  
13 and 13A-9-13.3."

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

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