

hereby authorized and empowered to vote upon all questions coming before such board for its action.

Sec. 6. Section 5, chapter 44, Laws of 1941 as last amended by section 16, chapter 75, Laws of 1977 and RCW 27.36.050 are each amended to read as follows:

There shall be appointed by the state capitol historical association, with the consent of the governor, a person to be designated as director of the state capitol museum, whose duties shall be:

(1) To designate arrangements and locations of the various collections and historical material in the state capitol museum;

(2) To administer the affairs of the museum under the policies established by the board of trustees; ~~((and))~~

(3) To perform such other duties and functions as may be delegated to him by the board of trustees; and

(4) To employ personnel and prescribe the duties of the personnel as may be necessary to implement the purposes of this chapter and the directions of the board of trustees.

Passed the Senate April 24, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 254

[Substitute Senate Bill No. 3890]

DISHONORED CHECKS

AN ACT Relating to commercial paper; amending section 1, chapter 23, Laws of 1967 ex. sess. as amended by section 1, chapter 62, Laws of 1969 and RCW 62A.3-515; amending section 2, chapter 62, Laws of 1969 and RCW 62A.3-520; amending section 3, chapter 62, Laws of 1969 and RCW 62A.3-525; amending section 16, chapter 253, Laws of 1971 ex. sess. and RCW 19.16.250; and adding a new section to Part 5, Article 3 of Title 62A RCW.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 1, chapter 23, Laws of 1967 ex. sess. as amended by section 1, chapter 62, Laws of 1969 and RCW 62A.3-515 are each amended to read as follows:

Whenever a check as defined in RCW 62A.3-104 has been dishonored by nonacceptance or nonpayment ~~((and))~~ the payee or holder of the check is entitled to collect a reasonable handling fee for each such instrument. When such check has not been paid within fifteen days and after the holder of such check sends such notice of dishonor as provided by RCW 62A.3-520 to the drawer at his last known address, then if the instrument does not provide for the payment of interest, or collection costs and attorneys fees, the drawer of such instrument shall also be liable for payment of

interest at the rate of twelve percent per annum from the date of dishonor and cost of collection not to exceed ((twenty)) forty dollars or the face amount of the check, whichever is the lesser. In addition, in the event of court action on the check the court, after such notice and the expiration of said fifteen days, shall award a reasonable attorneys fee as part of the damages payable to the holder of the check. This section shall not apply to any instrument which has been dishonored by reason of any justifiable stop payment order.

Sec. 2. Section 2, chapter 62, Laws of 1969 and RCW 62A.3-520 are each amended to read as follows:

The notice of dishonor shall be sent by ((certified)) mail to the drawer at his last known address, and said notice shall be substantially in the following form:

NOTICE OF DISHONOR OF CHECK

A check drawn by you and made payable by you to in the amount of has not been accepted for payment by, which is the drawee bank designated on your check. This check is dated, and it is numbered, No.

You are CAUTIONED that unless you pay the amount of this check within fifteen days after the date this letter is postmarked, you may very well have to pay the following additional amounts:

- (1) costs of collecting the amount of the check, including an attorney's fee which will be set by the court; and
- (2) interest on the amount of the check which shall accrue at the rate of twelve percent per annum from the date of dishonor.

You are advised to make your payment to at the following address:

NEW SECTION. Sec. 3. There is added to Part 5, Article 3 of Title 62A RCW a new section to read as follows:

In addition to sending notice of dishonor to the drawer of the check under RCW 62A.3-520, the holder of the check shall execute an affidavit certifying service of the notice by mail. The affidavit of service by mail shall be attached to a copy of the notice of dishonor and shall be substantially in the following form:

AFFIDAVIT OF SERVICE BY MAIL

I,, hereby certify that on the day of, 19.., a copy of the foregoing Notice was served on by mailing via the United States Postal Service, postage prepaid, at, Washington.

Dated:
(Signature)

The affidavit shall be retained with the check but a copy of the affidavit shall be filed with the clerk of the court in which an action on the check is commenced.

Sec. 4. Section 3, chapter 62, Laws of 1969 and RCW 62A.3-525 are each amended to read as follows:

No interest, collection costs and attorneys' fees, except handling fees, shall be recovered on any dishonored check under the provisions of RCW 62A.3-515 where the holder of such check or any agent, employee or assign of the holder has demanded:

(1) interest or collection costs in excess of that provided by RCW 62A.3-515; or

(2) interest or collection costs prior to the expiration of fifteen days after the ((certified)) mailing of notice of dishonor, as provided by RCW 62A.3-515 and 62A.3-520; or

(3) attorneys' fees either without having such fees set by the court, or prior to the expiration of fifteen days after the ((certified)) mailing of notice of dishonor, as provided by RCW 62A.3-515 and 62A.3-520.

Sec. 5. Section 16, chapter 253, Laws of 1971 ex. sess. and RCW 19-16.250 are each amended to read as follows:

No licensee or employee of a licensee shall:

(1) Directly or indirectly aid or abet any unlicensed person to engage in business as a collection agency in this state or receive compensation from such unlicensed person: PROVIDED, That nothing in this chapter shall prevent a licensee from accepting, as forwarder, claims for collection from a collection agency or attorney whose place of business is outside the state.

(2) Collect or attempt to collect a claim by the use of any means contrary to the postal laws and regulations of the United States postal department.

(3) Publish or post or cause to be published or posted, any list of debtors commonly known as "deadbeat lists" or threaten to do so.

(4) Have in his possession or make use of any badge, use a uniform of any law enforcement agency or any simulation thereof, or make any statements which might be construed as indicating an official connection with any federal, state, county, or city law enforcement agency, or any other governmental agency, while engaged in collection agency business.

(5) Perform any act or acts, either directly or indirectly, constituting the practice of law.

(6) Advertise for sale or threaten to advertise for sale any claim as a means of endeavoring to enforce payment thereof or agreeing to do so for the purpose of soliciting claims, except where the licensee has acquired claims as an assignee for the benefit of creditors or where the licensee is acting under court order.

(7) Use any name while engaged in the making of a demand for any claim other than the name set forth on his or its current license issued hereunder.

(8) Give or send to any debtor or cause to be given or sent to any debtor, any notice, letter, message, or form which represents or implies that a claim exists unless it shall indicate in clear and legible type:

(a) The name of the licensee and the city, street, and number at which he is licensed to do business;

(b) The name of the original creditor to whom the debtor owed the claim if such name is known to the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall make a reasonable effort to obtain the name of such person and provide this name to the debtor;

(c) If the notice, letter, message, or form is the first notice to the debtor or if the licensee is attempting to collect a different amount than indicated in his or its first notice to the debtor, an itemization of the claim asserted must be made including:

(i) Amount owing on the original obligation at the time it was received by the licensee for collection or by assignment;

(ii) Interest or service charge, collection costs, or late payment charges, if any, added to the original obligation by the original creditor, customer or assignor before it was received by the licensee for collection, if such information is known by the licensee or employee: PROVIDED, That upon written request of the debtor, the licensee shall make a reasonable effort to obtain information on such items and provide this information to the debtor;

(iii) Interest or service charge, if any, added by the licensee or customer or assignor after the obligation was received by the licensee for collection;

(iv) Collection costs, if any, that the licensee is attempting to collect;

(v) Attorneys' fees, if any, that the licensee is attempting to collect on his or its behalf or on the behalf of a customer or assignor;

(vi) Any other charge or fee that the licensee is attempting to collect on his or its own behalf or on the behalf of a customer or assignor.

(9) Communicate or threaten to communicate, the existence of a claim to a person other than one who might be reasonably expected to be liable on the claim in any manner other than through proper legal action, process, or proceedings except under the following conditions:

(a) A licensee or employee of a licensee may inform a credit reporting bureau of the existence of a claim: PROVIDED, That if the licensee or employee of a licensee reports a claim to a credit reporting bureau, the licensee shall upon receipt of written notice from the debtor that any part of the claim is disputed, forward a copy of such written notice to the credit reporting bureau;

(b) A licensee or employee in collecting or attempting to collect a claim may communicate the existence of a claim to a debtor's employer if the claim has been reduced to a judgment;

(c) A licensee or employee in collecting or attempting to collect a claim that has not been reduced to judgment, may communicate the existence of a claim to a debtor's employer if:

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his last known address or place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing to the licensee disputed any part of the claim: **PROVIDED**, That the licensee or employee may only communicate the existence of a claim which has not been reduced to judgment to the debtor's employer once unless the debtor's employer has agreed to additional communications.

(d) A licensee may for the purpose of locating the debtor or locating assets of the debtor communicate the existence of a claim to any person who might reasonably be expected to have knowledge of the whereabouts of a debtor or the location of assets of the debtor if the claim is reduced to judgment, or if not reduced to judgment; and

(i) The licensee or employee has notified or attempted to notify the debtor in writing at his last known address or last known place of employment concerning the claim and the debtor after a reasonable time has failed to pay the claim or has failed to agree to make payments on the claim in a manner acceptable to the licensee, and

(ii) The debtor has not in writing disputed any part of the claim.

(10) Threaten the debtor with impairment of his credit rating if a claim is not paid.

(11) Communicate with the debtor after notification in writing from an attorney representing such debtor that all further communications relative to a claim should be addressed to the attorney: **PROVIDED**, That if a licensee requests in writing information from an attorney regarding such claim and the attorney does not respond within a reasonable time, the licensee may communicate directly with the debtor until he or it again receives notification in writing that an attorney is representing the debtor.

(12) Communicate with a debtor or anyone else in such a manner as to harass, intimidate, threaten, or embarrass a debtor, including but not limited to communication at an unreasonable hour, with unreasonable frequency, by threats of force or violence, by threats of criminal prosecution, and by use of offensive language. A communication shall be presumed to have been made for the purposes of harassment if:

(a) It is made with a debtor or spouse in any form, manner, or place, more than three times in a single week;

(b) It is made with a debtor at his or her place of employment more than one time in a single week;

(c) It is made with the debtor or spouse at his or her place of residence between the hours of 9:00 p.m. and 7:30 a.m.

(13) Communicate with the debtor through use of forms or instruments that simulate the form or appearance of judicial process, the form or appearance of government documents, or the simulation of a form or appearance of a telegraphic or emergency message.

(14) Communicate with the debtor and represent or imply that the existing obligation of the debtor may be or has been increased by the addition of attorney fees, investigation fees, service fees, or any other fees or charges when in fact such fees or charges may not legally be added to the existing obligation of such debtor.

(15) Threaten to take any action against the debtor which the licensee cannot legally take at the time the threat is made.

(16) Send any telegram or make any telephone calls to a debtor or concerning a debt or for the purpose of demanding payment of a claim or seeking information about a debtor, for which the charges are payable by the addressee or by the person to whom the call is made.

(17) In any manner convey the impression that the licensee is vouched for, bonded to or by, or is an instrumentality of the state of Washington or any agency or department thereof.

(18) Collect or attempt to collect in addition to the principal amount of a claim any sum other than allowable interest, collection costs or handling fees expressly authorized by statute, and, in the case of suit, attorney's fees and taxable court costs.

(19) Procure from a debtor or collect or attempt to collect on any written note, contract, stipulation, promise or acknowledgment under which a debtor may be required to pay any sum other than principal, allowable interest, and, in the case of suit, attorney's fees and taxable court costs.

Passed the Senate April 26, 1981.

Passed the House April 25, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 255

[Senate Bill No. 3722]

FAMILY WINE

AN ACT Relating to home-made wine; amending section 32, chapter 62, Laws of 1933 ex. sess. as amended by section 1, chapter 39, Laws of 1955 and RCW 66.12.010; and adding a new section to chapter 66.28 RCW.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 32, chapter 62, Laws of 1933 ex. sess. as amended by section 1, chapter 39, Laws of 1955 and RCW 66.12.010 are each amended to read as follows: