

N.C.P.I.-Crim. 219.40  
OBTAINING PROPERTY IN RETURN FOR WORTHLESS CHECK, WITH  
INTENT TO CHEAT AND DEFRAUD. MISDEMEANOR.  
GENERAL CRIMINAL VOLUME  
MARCH 2003  
N.C. Gen. Stat. § 14-106  
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219.40 OBTAINING PROPERTY IN RETURN FOR WORTHLESS CHECK,  
WITH INTENT TO CHEAT AND DEFRAUD. MISDEMEANOR.

The defendant has been charged with obtaining property in return for a worthless check with intent to cheat and defraud.

For you to find the defendant guilty of this offense, the State must prove four things beyond a reasonable doubt:

First, that the defendant gave the victim a check<sup>1</sup> which was drawn upon a [bank] [financial institution] in which the [maker] [drawer<sup>2</sup>] had insufficient funds to pay the check.<sup>3</sup>

Second, that the check was not paid upon presentation.

Third, that the defendant obtained [money] [credit] [goods] [wares] [a thing of value] from the victim in exchange for the check.

And Fourth, that the defendant acted with the intent to cheat and defraud the victim.

(If you find from the evidence beyond a reasonable doubt that the defendant gave a check which *he* had drawn upon a [bank] [financial institution] in which *he* had insufficient funds for the payment or acceptance of the check, you may infer that *he* acted with the intent to cheat and defraud the victim. However, you are not compelled to do so. You will consider this along with all of the other evidence in this case in determining whether or not the defendant acted with the intent to cheat and defraud the victim.)

If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant with the intent to cheat and

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defraud the victim obtained [money] [credit] [good] [wares] [a thing of value] by means of a check<sup>1</sup> drawn upon a [bank] [financial institution] in which the [drawer] [maker] had insufficient funds for the payment of the check and that the check was not paid when presented to the [bank] [financial institution], it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.<sup>4</sup>

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1. The statute also applies to drafts or orders.

2. The statute also applies to persons, firms or corporations.

3. In a proper case, the jury should be instructed alternatively: "That before giving the victim the check, [the drawer had not provided for] [neither the defendant nor the drawer had provided for] the payment or acceptance of the check."

4. If there is to be an instruction on lesser included offenses, the last phrase should be: ". . . you will not return a verdict of guilty of obtaining property in return for a worthless check with intent to cheat and defraud."