

**ONE HUNDRED FIRST LEGISLATURE - FIRST SESSION - 2009**  
**COMMITTEE STATEMENT**  
**LB76**

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**Hearing Date:** Wednesday January 21, 2009  
**Committee On:** Judiciary  
**Introducer:** Pirsch  
**One Liner:** Authorize the aggregation of amounts under forgery in the second degree and criminal possession of a forged instrument

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

**Aye:** 8 Senators Ashford, Christensen, Coash, Council, Lathrop, Lautenbaugh, McGill, Rogert  
**Nay:**  
**Absent:**  
**Present Not Voting:**

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**Proponents:**

Sen. Pete Pirsch  
Kathy Siefken  
Jason Owens  
Michele Bang  
Bob Hallstrom

**Representing:**

Introducer  
NE Grocery Industry Association  
Hy-Vee; NE Grocers  
Omaha Police Department  
NE Bankers Association

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

**Summary of purpose and/or changes:**

LB 76 would allow for an aggregation of amounts on checks written during a single forgery scheme or course of conduct as provided in 28-603 as well as, for those who would be in the criminal possession of forged instruments as prohibited in 28-604. The sum total of the checks would allow for a higher penalty classification than using the highest amount of an individual check that was written during the same forgery course or scheme.

LB 76 would allow for the checks to be aggregated for the purposes of penalty classification, but each check written during a single scheme may not count as a separate charge.

**Penalties:**

1. Under 28-603, Forgery in the second degree is a class III felony if the face value of the proceeds or intended proceeds is \$1,000 or more. (Class III felony=20yr/\$25,000 fine/both with a 1 year mandatory minimum sentence)

- Forgery in the second degree is a class IV felony if the face value of the proceeds or intended proceeds exceeds \$300 but is less than \$1,000. (Class IV felony=5yr/\$10,000/ or both/No Mandatory minimum)

- Forgery in the second degree is a class I misdemeanor if the face value of the proceeds or intended proceeds is \$300

or less. (Class I misdemeanor=1yr/\$1,000/both)

2. Under 28-604, Criminal possession of a forged instrument prohibited by 28-602 is a class IV felony. (Class IV felony=5yrs/\$10,00/both)

- Criminal Possession of a forged instrument prohibited under 28-603 and the amount or value of the instrument is \$1,000 or more is a Class IV felony. (Class IV felony=5yrs/\$10,00/both)

- Criminal Possession of a forged instrument prohibited under 28-603 and the amount or value of the instrument is more than \$300 but less than \$1,000 is a Class I misdemeanor. (Class I misdemeanor=1yr/\$1,000/both)

- Criminal Possession of a forged instrument prohibited under 28-603 and the amount or value of the instrument is \$300 or less is a Class II misdemeanor. (Class II misdemeanor=6months/\$1,000/both)

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**Explanation of amendments:**

AM 649 would make the following change to LB 76:

- On page 2, line 23; and page 3, line 22, after "conduct" insert "within a sixty-day period in one county".

This amendment would clarify that for aggregation purposes, forged checks and criminal possession of forged instruments can be aggregated for penalty enhancement purposes if the checks were written during a single "course" or "scheme", with a single "course" or "scheme" being limited to a sixty day period within one county.

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Brad Ashford, Chairperson