



MIKE McLELLAND
CRIMINAL DISTRICT ATTORNEY
100 West Mulberry Street Kaufman, Texas 75142

Dear Merchant,

Re: Stop Payment Checks

When a customer directs, in the appropriate manner, a bank to stop payment on a particular check the bank is required to refrain from paying that check. If you receive a check for merchandise or service you provide and the bank returns the check to you unpaid because it received a stop payment order, you may be able to file a complaint against the check writer for theft under certain circumstances.

The law differentiates between checks written for merchandise and those written for services. If services were obtained by writing a check that was later ordered stop payment, the letter sent is the same demand letter as for an NSF (insufficient funds) check and the process remains the same as before with the account balance the deciding factor. Checks written in order to obtain merchandise, however, which were later ordered not paid by the check writer, are treated differently. The following paragraph describes in detail the steps necessary to initiate a theft investigation.

A check written for merchandise and later not paid because of a stop payment order requires that a special stop payment demand letter be sent. The letter, because the law requires it, gives the check writer 10 days to either return the merchandise or pay the check. (See specific verbiage in the sample letter.) Your acceptance of the return of the merchandise is not optional if you wish to file a criminal complaint for theft. In other words, if you wish to file a complaint with us on the check, you must accept the merchandise if it is returned to you. If you get the merchandise back, you may not file a complaint with us, but you may seek compensation for any degradation in the value of the merchandise through the civil courts. If the check you hold was written for perishable merchandise (for example, prepared sandwiches) or was for a mixture of goods and services, please contact the office to discuss which procedure must be followed.

If you have further questions, or if you have comments, please call our Hot Check Department at 972-932-4331 extension 1169 or 1171.