

**14-1673. Defense of notice to payee that check is worthless.<sup>1</sup>**

An issue you must consider [in Count \_\_\_\_\_]<sup>2</sup> is whether \_\_\_\_\_<sup>3</sup> was on notice that the check was an insufficient funds check when \_\_\_\_\_<sup>3</sup> accepted the check. If \_\_\_\_\_<sup>3</sup> was on notice that the check was an insufficient funds check, then you must find the defendant not guilty [of Count \_\_\_\_\_]<sup>2</sup>.

A person who accepts a check is on notice that it is an insufficient funds check if:  
[The check is postdated; that is, dated later than the day that the check is delivered]<sup>4</sup>

[or]

[The person who accepts the check (knows)<sup>5</sup> (has been told) (has reason to believe) that at the time the check was delivered and accepted, the person who signed the check did not have on deposit (or to his credit)<sup>6</sup> sufficient funds to insure payment of the check when it reached the bank].

The burden is on the state to prove beyond a reasonable doubt that \_\_\_\_\_<sup>3</sup> was not on notice that the check was an insufficient funds check.

**USE NOTES**

1. For use when there is an issue as to an exception under the Worthless Check Act [30-36-1 NMSA 1978].

2. Insert the count number if more than one count is charged.

3. Identify the person or persons, in the alternative, to whom notice would constitute a defense.

4. Use applicable bracketed paragraph or paragraphs.

5. If this bracketed paragraph is used, use in the alternative the applicable parenthetical phrase or phrases.

6. Use parenthetical clause if credit is in issue.

[As amended by Supreme Court Order No. 18-8300-012, effective for all cases pending or filed on or after December 31, 2018.]