

R.S. 2A:170-97

March 30, 1966

LEGISLATIVE HISTORY OF R.S. 2A:170-97 et seq
(Shoplifting)

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Previous bills:

COPY NO. 2

1961 - A594 (~~copy enclosed~~)
Passed Assembly.
Died in Senate Committee.

L. 1962, Chapter 178 - A634
Introduced April 2 by Moraites (& 10 others).
Bill had statement (copy of original bill with
statement enclosed).

May 21 - Passed Assembly amended (copy of amendment enclosed).
November 19 - Passed Senate.
December 5 - Approved.

No hearings or reports on this legislation were found.

RS/PC

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ASSEMBLY, No. 634

STATE OF NEW JERSEY

INTRODUCED APRIL 2, 1962

By Assemblyman MORAITES, Assemblywomen HIGGINS and KORDJA,

Assemblymen WOODCOCK, RANDALL, WANNER, GROSS

and SAVINO

Referred to Committee on Judiciary

AN Act concerning disorderly persons in relation to shoplifting; creating certain presumptions arising out of the concealment of unpurchased merchandise; and providing that the detaining for probable cause and for a reasonable time of persons under suspicion of shoplifting, by certain officers or merchants shall not render any such officer or merchant criminally or civilly liable in any manner or to any extent whatsoever, and supplementing subtitle 12 of Title 2A of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. For the purposes of this act, unless the context clearly requires a
2 different meaning:

3 "Shoplifting" shall consist of any one or more of the following acts:

4 a. For any person willfully to take possession of any merchandise
5 offered for sale by any store or other retail mercantile establishment with
6 the intention of converting the same to the use of such person without pay-
7 ing to the owner the value thereof.

8 b. For any person willfully to conceal upon his person or otherwise
9 any merchandise offered for sale by any store or other retail mercantile
10 establishment with the intention of converting the same to the use of such
11 person without paying to the owner the value thereof.

12 c. For any person willfully to alter any label, price tag or marking upon
13 any merchandise offered for sale by any store or other retail mercantile
14 establishment with the intention of depriving the owner of all or some part
15 of the value thereof.

16 d. For any person willfully to transfer any merchandise offered for
17 sale by any store or other retail mercantile establishment from the container
18 in or on which the same shall be displayed to any other container with intent
19 to deprive the owner of all or some part of the value thereof.

20 "Store or other retail mercantile establishment" shall mean a place
21 where merchandise is sold or offered to the public for sale.

22 "Merchandise" shall mean any goods, chattels, foodstuffs or wares of
23 any type and description, regardless of the value thereof.

24 "Merchant" shall mean any owner or proprietor of any store or other
25 retail mercantile establishment, or any agent, servant or employee of such
26 owner or proprietor.

27 "Person" shall mean any individual or individuals, including an agent,
28 servant or employee of a merchant where the facts of the situation so re-
29 quire.

30 "Probable cause" shall include, but not be limited to, knowledge that a
31 person has concealed possession of unpurchased merchandise of any store
32 or other retail mercantile establishment.

33 "Reasonable time" shall mean the time necessary to permit the person
34 detained to make a statement or to refuse to make a statement, and the time
35 necessary to examine employees and records of the store or other retail mer-
36 cantile establishment relative to the ownership of the merchandise.

1 2. Any person found guilty of shoplifting, as the same is defined in sec-
2 tion 1 of this act, is a disorderly person.

1 3. Any person willfully concealing unpurchased merchandise of any store
2 or other retail mercantile establishment, either on the premises or outside
3 the premises of such store or other retail mercantile establishment, shall be
4 prima facie presumed to have so concealed such merchandise with the inten-

5 tion of converting the same to his own use without paying the purchase price
6 thereof within the meaning of section 1 of this act, and the finding of such
7 merchandise concealed upon the person or among the belongings of such
8 person shall be prima facie evidence of willful concealment; and if such per-
9 son conceals, or causes to be concealed, such merchandise upon the person
10 or among the belongings of another, the finding of the same shall also be
11 prima facie evidence of willful concealment on the part of the person so con-
12 cealing such merchandise.

1 4. A law enforcement officer, or a special officer, or a merchant, who has
2 probable cause for believing that a person has willfully concealed unpur-
3 chased merchandise and that he can recover such merchandise by taking the
4 person into custody, may, for the purpose of attempting to effect such re-
5 covery, take the person into custody and detain him in a reasonable manner
6 for not more than a reasonable time. Such taking into custody by a law en-
7 forcement officer or special officer or merchant shall not render such law
8 enforcement officer, special officer or merchant criminally or civilly liable in
9 any manner or to any extent whatsoever.

10 Any law enforcement officer may arrest without warrant any person he
11 has probable cause for believing has committed the offense of shoplifting as
12 defined in section 1 of this act.

13 A merchant who causes such arrest as provided for in this section, of a
14 person for shoplifting shall not be criminally or civilly liable in any manner
15 or to any extent whatsoever where the merchant has probable cause for be-
16 lieving that the person arrested committed the offense of shoplifting.

1 5. It is declared to be the legislative intent that, if any section, subsec-
2 tion, sentence, clause or provision of this act is held invalid, the remainder
3 of the act shall not be affected.

1 6. This act shall take effect immediately.

STATEMENT

The retail merchants in New Jersey are now suffering great financial loss
at the hands of shoplifters, which loss has been estimated by the Retail Mer-

chants Association of New Jersey to exceed the staggering sum of \$20 million annually. Such losses are ultimately reflected in increased retail prices for merchandise and higher costs to the consumer. Retail merchants have been handicapped in apprehending and prosecuting shoplifters as there is presently great difficulty in securing an arrest. It is necessary to give the merchant authority to detain a suspect without subjecting him to criminal or civil liability for false arrest, false imprisonment, malicious prosecution, invasion of civil rights, unlawful detention, defamation of character, assault, trespass, et cetera, where probable cause exists to believe an act of shoplifting has been committed. New Jersey should take this forward step to protect the rights of its merchants.

ASSEMBLY ~~COMMITTEE~~ AMENDMENT TO

ASSEMBLY, No. 634

STATE OF NEW JERSEY

ADOPTED MAY 7, 1962

Amend page 2, section 1, lines 30 to 36, delete in their entirety.