

2A: 61C-1

LEGISLATIVE HISTORY CHECKLIST
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(Shoplifting--amendments)

SJA: 2A:61C-1

LAWS OF: 1993 **CHAPTER:** 214

BILL NO: A1443

SPONSOR(S) Derman

DATE INTRODUCED: May 18, 1992

COMMITTEE: **ASSEMBLY:** Judiciary

SENATE: Judiciary

AMENDED DURING PASSAGE: Yes Amendments during passage
Second reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** Juen 17, 1993

SENATE: June 29, 1993

DATE OF APPROVAL: July 30, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clipping--attached.

KBG:pp

P.L.1993, CHAPTER 214, *approved July 30, 1993*
1992 Assembly No. 1443 (*Second Reprint*)

1 **AN ACT** concerning shoplifting and supplementing Title 2A of
2 the New Jersey Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the
5 *State of New Jersey*:

6 1. a. A person who commits the offense of shoplifting as
7 defined in N.J.S.2C:20-11 or a person who commits the offense of
8 theft as defined in ²[N.J.S.2C:20-2] Chapter 20 of Title 2C of the
9 New Jersey Statutes² by stealing food or drink from an eating
10 establishment shall be liable for any criminal penalties imposed
11 by law ²[or, alternatively,] and² shall be liable to the merchant in
12 a civil action in an amount equal to the following:

13 (1) The value of the merchandise as damages, not to exceed
14 \$500.00, if the merchandise cannot be restored to the merchant
15 in its original condition;

16 (2) Additional damages, if any, arising from the incident, not to
17 include any loss of time or wages incurred by the merchant in
18 connection with the apprehension of the defendant; ²and²

19 (3) A civil penalty payable to the merchant in ²[the] an²
20 amount of ²up to² \$150²; and

21 (4) If the merchant institutes suit pursuant to this act,
22 reasonable attorney's fees and reasonable court costs]².

23 b. A parent, guardian or other person having legal custody of a
24 minor who commits the offense of shoplifting or the offense of
25 theft of food or drink from an eating establishment shall be liable
26 to the merchant for the damages specified in subsection a. of this
27 section. This subsection shall not apply to a parent whose
28 parental custody and control of such minor has been removed by
29 court order, decree, judgment, military service, or marriage of
30 such infant, or to a foster parent of such minor.

31 c. ¹[No civil action may be initiated under this act if the
32 merchant files a criminal complaint of shoplifting, and the filing
33 of a criminal complaint precludes any relief to the merchant
34 under this act.] ²[If a merchant files criminal shoplifting charges
35 no civil action may be initiated under this act. Initiation of civil
36 action under this act precludes filing of criminal shoplifting
37 charges by the merchant.¹ If a merchant institutes a civil action
38 pursuant to the provisions of this section, the prevailing party in
39 that action shall be entitled to an award of reasonable attorney's
40 fees and reasonable court costs.²

41 d. Limitations on civil action:

42 (1) Before a civil action may be commenced, the merchant

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AJL committee amendments adopted June 22, 1992.

² Senate SJU committee amendments adopted March 11, 1993.

1 shall send a notice to the defendant's last known address giving
2 the defendant 20 days to respond. It is not a condition precedent
3 to maintaining an action under this act that the defendant has
4 been convicted of shoplifting or theft.

5 (2) No civil action under this act may be maintained if the
6 defendant has paid the merchant a penalty equal to the retail
7 value of the merchandise where the merchandise was not
8 recovered in its original condition, plus a sum of ²up to² \$150.00.

9 (3) The provisions of this act do not apply in any case where the
10 value of the merchandise exceeds \$500.00.

11 e. If the person to whom a written demand is made complies
12 with such demand within 20 days following the receipt of the
13 demand, that person shall be given a written release from further
14 civil liability with respect to the specific act of shoplifting or
15 theft.

16 2. This act shall take effect immediately.

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21 Provides civil action for shoplifting and other retail thefts.

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2 with such demand within 20 days following the receipt of the
3 demand, that person shall be given a written release from further
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5 theft.

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9 STATEMENT

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11 This bill would impose civil liability on persons who commit the
12 offense of shoplifting or the offense of stealing food or drink
13 from an eating establishment.

14 The bill provides that a defendant will be liable to the
15 merchant for the value of the merchandise as damages, if the
16 merchandise cannot be restored to the merchant in its original
17 condition; for additional damages, if any, arising from the
18 incident; a civil penalty payable to the merchant in the amount of
19 \$150; and, if the merchant institutes suit, reasonable attorney's
20 fees and court costs.

21 Parents, guardians or other persons having legal custody of
22 unemancipated minors under the age of 18 who commit
23 shoplifting would also be liable for these civil remedies. This
24 liability would not include parents whose custody and control had
25 been removed by court order or by the minor's emancipation; nor
26 would it include foster parents.

27 The civil action is intended to provide an alternative to the
28 criminal justice system. Thus, a merchant who institutes suit
29 under the act would be barred from filing criminal charges
30 against the defendant, and a merchant who files criminal charges
31 would not be able to bring suit. The act would only apply where the
32 value of the merchandise involved does not exceed \$500. If
33 merchandise of greater value is stolen, the usual provisions of the
34 Criminal Code would apply.

35 The merchant would be required to send a notice to the
36 defendant 20 days before instituting the civil action under the
37 act. If the defendant pays the merchant the retail value of the
38 merchandise plus the \$150 additional damages before the twenty
39 days has elapsed, the merchant would be barred from instituting
40 the civil action, and would be required to send the defendant a
41 written release in this regard.

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46 Provides civil action for shoplifting and other retail thefts.

ASSEMBLY JUDICIARY, LAW AND PUBLIC SAFETY
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1443

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 1992

The Assembly Judiciary, Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 1443.

This bill would impose civil liability on persons who commit the offense of shoplifting or the offense of stealing food or drink from an eating establishment. The bill would only apply where the value of the merchandise involved does not exceed \$500. If merchandise of greater value is stolen, the usual provisions of the criminal code would apply.

The bill provides that a defendant will be liable to the merchant for the value of the merchandise as damages, if the merchandise cannot be restored to the merchant in its original condition; for additional damages, if any, arising from the incident; a civil penalty payable to the merchant in the amount of \$150; and, if the merchant institutes suit, reasonable attorney's fees and court costs.

Parents, guardians or other persons having legal custody of unemancipated minors under the age of 18 who commit shoplifting would also be liable for these civil remedies. This liability would not include parents whose custody and control had been removed by court order or by the minor's emancipation; nor would it include foster parents.

The civil action is intended to provide an alternative to the criminal justice system. Thus, a merchant who institutes suit under the act would be barred from filing criminal charges against the defendant, and a merchant who files criminal charges would not be able to bring a civil suit.

The merchant would be required to send a notice to the defendant 20 days before instituting the civil action under the act. If the defendant pays the merchant the retail value of the merchandise plus the \$150 additional damages before the 20 days has elapsed, the merchant would be barred from instituting the civil action, and would be required to send the defendant a written release in this regard.

The committee amended subsection c. to clarify the language. Initiation of civil action precludes filing of criminal shoplifting charges and the filing of criminal shoplifting charges precludes initiation of civil action under the act.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 1443

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 11, 1993

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 1443 (1R).

This bill would impose civil liability on persons who commit the offense of shoplifting or the offense of stealing food or drink from an eating establishment. The provisions of these bills would only apply where the value of the merchandise involved does not exceed \$500. If merchandise of greater value is stolen, the usual provisions of the criminal code would apply.

Prior to the amendments, the bill provided that a defendant would be liable to the merchant for the value of the merchandise as damages, if the merchandise cannot be restored to the merchant in its original condition; for additional damages, if any, arising from the incident; a civil penalty payable to the merchant in the amount of \$150; and, if the merchant institutes suit, reasonable attorney's fees and court costs.

The committee amended the bill to provide that if a civil action is instituted, the prevailing party is entitled to reasonable attorney's fees and court costs. In addition, these amendments would set the civil penalty which a merchant may recover from a shoplifter at up to \$150.00. The bill presently would require a \$150.00 civil penalty in all cases.

Parents, guardians or other persons having legal custody of unemancipated minors under the age of 18 who commit shoplifting would also be liable for these civil remedies. This liability would not include parents whose custody and control had been removed by court order or by the minor's emancipation; nor would it include foster parents.

The merchant would be required to send a notice to the defendant 20 days before instituting the civil action under the act. If the defendant pays the merchant the retail value of the merchandise plus the additional damages before the 20 days has elapsed, the merchant would be barred from instituting the civil action, and would be required to send the defendant a written release in this regard.

The committee amendments delete the language which would have barred a merchant who institutes a civil action from filing criminal charges. The amendments would provide that the civil proceeding would be an additional procedure rather than an alternative to criminal proceedings.

As amended this bill is identical to Senate Bill No. 1118 (1R).