

ASSEMBLY, No. 2484

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 7, 1996

By Assemblyman STEELE and Assemblywoman FRISCIA

1 AN ACT concerning shoplifting and amending N.J.S.2C:20-11.

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

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6 1. N.J.S.2C:20-11 is amended to read as follows:

7 2C:20-11. Shoplifting.

8 a. Definitions. The following definitions apply to this section:

9 (1) "Shopping cart" means those push carts of the type or types
10 which are commonly provided by grocery stores, drug stores or other
11 retail mercantile establishments for the use of the public in
12 transporting commodities in stores and markets and, incidentally,
13 from the stores to a place outside the store;

14 (2) "Store or other retail mercantile establishment" means a place
15 where merchandise is displayed, held, stored or sold or offered to the
16 public for sale;

17 (3) "Merchandise" means any goods, chattels, foodstuffs or wares
18 of any type and description, regardless of the value thereof;

19 (4) "Merchant" means any owner or operator of any store or other
20 retail mercantile establishment, or any agent, servant, employee,
21 lessee, consignee, officer, director, franchisee or independent
22 contractor of such owner or proprietor;

23 (5) "Person" means any individual or individuals, including an
24 agent, servant or employee of a merchant where the facts of the
25 situation so require;

26 (6) "Conceal" means to conceal merchandise so that, although
27 there may be some notice of its presence, it is not visible through
28 ordinary observation;

29 (7) "Full retail value" means the merchant's stated or advertised
30 price of the merchandise;

31 (8) "Premises of a store or retail mercantile establishment" means
32 and includes but is not limited to, the retail mercantile establishment;
33 any common use areas in shopping centers and all parking areas set
34 aside by a merchant or on behalf of a merchant for the parking of

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

Matter underlined thus is new matter.

1 vehicles for the convenience of the patrons of such retail mercantile
2 establishment;

3 (9) "Under-ring" means to cause the cash register or other sale
4 recording device to reflect less than the full retail value of the
5 merchandise;

6 (10) "Antishoplifting or inventory control device countermeasure"
7 means any item or device which is designed, manufactured, modified,
8 or altered to defeat any antishoplifting or inventory control device.

9 b. Shoplifting. Shoplifting shall consist of any one or more of
10 the following acts:

11 (1) For any person purposely to take possession of, carry away,
12 transfer or cause to be carried away or transferred, any merchandise
13 displayed, held, stored or offered for sale by any store or other retail
14 mercantile establishment with the intention of depriving the merchant
15 of the possession, use or benefit of such merchandise or converting the
16 same to the use of such person without paying to the merchant the full
17 retail value thereof.

18 (2) For any person purposely to conceal upon his person or
19 otherwise any merchandise offered for sale by any store or other retail
20 mercantile establishment with the intention of depriving the merchant
21 of the processes, use or benefit of such merchandise or converting the
22 same to the use of such person without paying to the merchant the
23 value thereof.

24 (3) For any person purposely to alter, transfer or remove any label,
25 price tag or marking indicia of value or any other markings which aid
26 in determining value affixed to any merchandise displayed, held, stored
27 or offered for sale by any store or other retail mercantile
28 establishment and to attempt to purchase such merchandise personally
29 or in consort with another at less than the full retail value with the
30 intention of depriving the merchant of all or some part of the value
31 thereof.

32 (4) For any person purposely to transfer any merchandise displayed,
33 held, stored or offered for sale by any store or other retail merchandise
34 establishment from the container in or on which the same shall be
35 displayed to any other container with intent to deprive the merchant
36 of all or some part of the retail value thereof.

37 (5) For any person purposely to under-ring with the intention of
38 depriving the merchant of the full retail value thereof.

39 (6) For any person purposely to remove a shopping cart from the
40 premises of a store or other retail mercantile establishment without
41 the consent of the merchant given at the time of such removal with
42 the intention of permanently depriving the merchant of the possession,
43 use or benefit of such cart.

44 c. Gradation. Any person found guilty of an offense under
45 subsection b. is a disorderly person, except that notwithstanding the
46 fine provided under 2C:43-3, such person shall be sentenced to pay a

1 fine of not more than \$500.00 for a first offense; to pay a fine of not
2 less than \$100.00, nor more than \$500.00 for a second offense and to
3 pay a fine of not less than \$250.00, nor more than \$1,000.00 for a
4 third and any subsequent offense. Additionally, notwithstanding the
5 term of imprisonment provided in 2C:43-8, any person convicted of a
6 third or subsequent shoplifting offense shall serve a minimum term of
7 not less than 30 days.

8 d. Presumptions. Any person purposely concealing unpurchased
9 merchandise of any store or other retail mercantile establishment,
10 either on the premises or outside the premises of such store or other
11 retail mercantile establishment, shall be prima facie presumed to have
12 so concealed such merchandise with the intention of depriving the
13 merchant of the possession, use or benefit of such merchandise
14 without paying the full retail value thereof, and the finding of such
15 merchandise concealed upon the person or among the belongings of
16 such person shall be prima facie evidence of purposeful concealment;
17 and if such person conceals, or causes to be concealed, such
18 merchandise upon the person or among the belongings of another, the
19 finding of the same shall also be prima facie evidence of willful
20 concealment on the part of the person so concealing such
21 merchandise.

22 e. A law enforcement officer, or a special officer, or a merchant,
23 who has probable cause for believing that a person has willfully
24 concealed unpurchased merchandise and that he can recover the
25 merchandise by taking the person into custody, may, for the purpose
26 of attempting to effect recovery thereof, take the person into custody
27 and detain him in a reasonable manner for not more than a reasonable
28 time, and the taking into custody by a law enforcement officer or
29 special officer or merchant shall not render such person criminally or
30 civilly liable in any manner or to any extent whatsoever.

31 Any law enforcement officer may arrest without warrant any person
32 he has probable cause for believing has committed the offense of
33 shoplifting as defined in this section.

34 A merchant who causes the arrest of a person for shoplifting, as
35 provided for in this section, shall not be criminally or civilly liable in
36 any manner or to any extent whatsoever where the merchant has
37 probable cause for believing that the person arrested committed the
38 offense of shoplifting.

39 f. Any person who possesses or uses any antishoplifting or
40 inventory control device countermeasure within any store or other
41 retail mercantile establishment is guilty of a disorderly persons offense.
42 (cf: P.L.1979, c.178, s.35B)

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44 2. This act shall take effect immediately .

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STATEMENT

This bill would make it a disorderly persons offense to possess or use any antishoplifting or inventory control device countermeasure within any store or other retail mercantile establishment. A disorderly persons offense is punishable by term of imprisonment of up to six months, a maximum fine of \$1,000 or both.

The bill defines an "antishoplifting or inventory control device countermeasure" as any item or device which is designed, manufactured, modified, or altered to defeat any antishoplifting or inventory control device.

Prohibits the use and possession of antishoplifting or inventory control device countermeasure.