

ASSEMBLY, No. 2801

STATE OF NEW JERSEY

INTRODUCED MARCH 20, 1997

By Assemblymen ZISA and RUSSO

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 transporting
12 commodities in stores and markets and, incidentally, from the stores
13 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 b. Shoplifting. Shoplifting shall consist of any one or more of the
7 following acts:

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

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

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

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

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

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

40 c. Gradation.

41 [Any person found guilty of an offense under subsection b. is a
42 disorderly person, except that notwithstanding the fine provided under
43 2C:43-3, such person shall be sentenced to pay a fine of not more than
44 \$500.00 for a first offense; to pay a fine of not less than \$100.00, nor
45 more than \$500.00 for a second offense and to pay a fine of not less
46 than \$250.00, nor more than \$1,000.00 for a third and any subsequent

1 offense.]

2 (1) Shoplifting constitutes a crime of the second degree under
3 subsection b. of this section if the full retail value of the item is
4 \$75,000.00 or more.

5 (2) Shoplifting constitutes a crime of the third degree under
6 subsection b. of this section if the full retail value of the item exceeds
7 \$500.00 but is less than \$75,000.00.

8 (3) Shoplifting constitutes a crime of the fourth degree under
9 subsection b. of this section if the full retail value of the item is at least
10 \$200.00 but does not exceed \$500.00

11 (4) Shoplifting is a disorderly persons offense under subsection b.
12 of this section if the full retail value of the item is less than \$200.00.

13 Additionally, notwithstanding the term of imprisonment provided
14 in N.J.S.2C:43-6 or 2C:43-8, any person convicted of a third or
15 subsequent shoplifting offense shall serve a minimum term of not less
16 than 30 days.

17 d. Presumptions. Any person purposely concealing unpurchased
18 merchandise of any store or other retail mercantile establishment,
19 either on the premises or outside the premises of such store or other
20 retail mercantile establishment, shall be prima facie presumed to have
21 so concealed such merchandise with the intention of depriving the
22 merchant of the possession, use or benefit of such merchandise
23 without paying the full retail value thereof, and the finding of such
24 merchandise concealed upon the person or among the belongings of
25 such person shall be prima facie evidence of purposeful concealment;
26 and if such person conceals, or causes to be concealed, such
27 merchandise upon the person or among the belongings of another, the
28 finding of the same shall also be prima facie evidence of willful
29 concealment on the part of the person so concealing such merchandise.

30 e. A law enforcement officer, or a special officer, or a merchant,
31 who has probable cause for believing that a person has willfully
32 concealed unpurchased merchandise and that he can recover the
33 merchandise by taking the person into custody, may, for the purpose
34 of attempting to effect recovery thereof, take the person into custody
35 and detain him in a reasonable manner for not more than a reasonable
36 time, and the taking into custody by a law enforcement officer or
37 special officer or merchant shall not render such person criminally or
38 civilly liable in any manner or to any extent whatsoever.

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

42 A merchant who causes the arrest of a person for shoplifting, as
43 provided for in this section, shall not be criminally or civilly liable in
44 any manner or to any extent whatsoever where the merchant has
45 probable cause for believing that the person arrested committed the

1 offense of shoplifting.
2 (cf: P.L.1979, c.178, s.35B)

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4 2. This act shall take effect immediately .

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STATEMENT

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9 This bill would establish a grading system for shoplifting based
10 upon the full retail value of the item taken. Under the provisions of
11 the bill, shoplifting would be considered a crime of the second degree
12 if the full retail value of the item was \$75,000.00 or more. A crime of
13 the second degree is punishable by a term of imprisonment of five to
14 10 years, a fine not to exceed \$100,000.00 or both. If the full retail
15 value of the item was \$500.00 but less than \$75,000.00 then it would
16 be considered a crime of the third degree. A crime of the third degree
17 is punishable by a term of imprisonment of three to five years, a fine
18 not to exceed \$7,500.00, or both. Shoplifting would be a crime of the
19 fourth degree if the full retail value of the item was at least \$200.00
20 but does not exceed \$500.00. A crime of the fourth degree is
21 punishable by a term of imprisonment not to exceed 18 months, a fine
22 of \$7,500.00 or both. In addition, shoplifting would be a disorderly
23 persons offense if the full retail value of the item was less than
24 \$200.00. A disorderly persons offense is punishable by a term of
25 imprisonment of up to 6 months, a fine of up to \$1,000.00 or both.

26 This provision in the law which provides for a minimum term of not
27 less than 30 days for a third or subsequent offense remains unchanged.

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32 Establishes a grading system for shoplifting.