

LEGISLATIVE BILL 894

Approved by the Governor April 12, 2010

Introduced by Pirsch, 4.

FOR AN ACT relating to crimes and offenses; to amend section 28-511.01, Reissue Revised Statutes of Nebraska, and section 28-101, Revised Statutes Supplement, 2009; to change provisions relating to shoplifting; to prohibit possession of any store security device countermeasure; to define a term; to provide a penalty; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 28-101, Revised Statutes Supplement, 2009, is amended to read:

28-101 Sections 28-101 to 28-1356 and section 3 of this act shall be known and may be cited as the Nebraska Criminal Code.

Sec. 2. Section 28-511.01, Reissue Revised Statutes of Nebraska, is amended to read:

28-511.01 (1) A person commits the crime of theft by shoplifting when he or she, with the intent of appropriating goods or merchandise to his or her own use without paying for the same goods or merchandise or to deprive the owner of possession of such property goods or merchandise or its retail value, in whole or in part, does any of the following:

(a) Conceals or takes possession of the goods or merchandise of any store or retail establishment;

(b) Alters the price tag or other price marking on goods or merchandise of any store or retail establishment;

(c) Transfers the goods or merchandise of any store or retail establishment from one container to another;

(d) Interchanges the label or price tag from one item of a good or of merchandise with a label or price tag for another item of a good or of merchandise; ~~or~~

(e) Causes the cash register or other sales recording device to reflect less than the retail price of the goods or merchandise; ~~or-~~

(f) Alters, bypasses, disables, shields, or removes any security or alarm device attached to or housing any goods or merchandise of any store, including the use or possession of a security device countermeasure as defined in section 3 of this act, prior to purchase of the goods or merchandise.

(2) In any prosecution for theft by shoplifting, photographs of the shoplifted property may be accepted as prima facie evidence as to the identity of the property. Such photograph shall be accompanied by a written statement containing the following:

(a) A description of the property;

(b) The name of the owner or owners of the property;

(c) The time, date, and location where the shoplifting occurred;

(d) The time and date the photograph was taken;

(e) The name of the photographer; and

(f) Verification by the arresting officer.

The purpose of this subsection is to allow the owner or owners of shoplifted property the use of such property during pending criminal prosecutions.

Prior to allowing the use of the shoplifted property as provided in this section, legal counsel for the alleged shoplifter shall have a reasonable opportunity to inspect and appraise the property and may file a motion for retention of the property, which motion shall be granted if there is any reasonable basis for believing that the photographs and accompanying affidavit may be misleading.

Sec. 3. (1) It shall be unlawful for any person, other than an authorized agent of a store or retail establishment, to possess, in that store, any security device countermeasure.

(2) For purposes of this section, security device countermeasure means a device which bypasses, disables, or removes an electronic or magnetic theft alarm sensor.

(3) Any person violating this section is guilty of a Class II misdemeanor.

Sec. 4. Original section 28-511.01, Reissue Revised Statutes of Nebraska, and section 28-101, Revised Statutes Supplement, 2009, are repealed.