

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 751

Introduced by D. Pederson, 42; Byars, 30; C. Peterson, 35;
Robak, 22; Tyson, 19

Read first time January 20, 1999

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend sections
2 28-511.01 and 28-601, Reissue Revised Statutes of
3 Nebraska; to prohibit acts relating to retail sales
4 receipts and Universal Price Codes; to provide penalties;
5 and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-511.01, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 28-511.01. (1) A person commits the crime of theft by
4 shoplifting when he or she, with the intent of appropriating
5 merchandise to his or her own use without paying for the same or to
6 deprive the owner of possession of such property or its retail
7 value, in whole or in part, does any of the following:

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

10 (b) Alters the price tag, Universal Price Code, or other
11 price marking on goods or merchandise of any store or retail
12 establishment;

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

15 (d) Interchanges the label, Universal Price Code, or
16 price tag from one item of merchandise with a label, Universal
17 Price Code, or price tag for another item of merchandise; or

18 (e) Causes the cash register or other sales recording
19 device to reflect less than the retail price of the merchandise.

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

25 (a) A description of the property;

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

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

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

2 (e) The name of the photographer; and

3 (f) Verification by the arresting officer.

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

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

14 Sec. 2. Section 28-601, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 28-601. As used in sections 28-601 to 28-605, unless the
17 context otherwise requires:

18 (1) Written instrument shall mean any paper, document, or
19 other instrument containing written or printed matter used for
20 purposes of reciting, embodying, conveying, or recording
21 information, and any money, credit card, token, stamp, seal, badge,
22 trademark, retail sales receipt, Universal Price Code, or any
23 evidence or symbol of value, right, privilege, or identification
24 which is capable of being used to the advantage or disadvantage of
25 some person;

26 (2) Complete written instrument shall mean a written
27 instrument which purports to be genuine and fully drawn with
28 respect to every essential feature thereof;

1 (3) Incomplete written instrument shall mean one which
2 contains some matter by way of content or authentication but which
3 requires additional matter in order to render it a complete written
4 instrument;

5 (4) To falsely make a written instrument shall mean to
6 make or draw a written instrument, whether complete or incomplete,
7 which purports to be an authentic creation of its ostensible maker,
8 but which is not, either because the ostensible maker is fictitious
9 or because, if real, he or she did not authorize the making or the
10 drawing thereof;

11 (5) To falsely complete a written instrument shall mean
12 to transform an incomplete written instrument into a complete one
13 by adding, inserting, or changing matter without the authority of
14 anyone entitled to grant such authority, so that the complete
15 written instrument falsely appears or purports to be in all
16 respects an authentic creation of or fully authorized by its
17 ostensible maker;

18 (6) To falsely alter a written instrument shall mean to
19 change a written instrument without the authority of anyone
20 entitled to grant such authority, whether it be in complete or
21 incomplete form, by means of erasure, obliteration, deletion,
22 insertion of new matter, transposition of matter, or by any other
23 means, so that such instrument in its thus altered form falsely
24 appears or purports to be in all respects an authentic creation of
25 or fully authorized by its ostensible maker;

26 (7) Forged instrument shall mean a written instrument
27 which has been falsely made, completed, endorsed or altered. The
28 terms forgery and counterfeit and their variants are intended to be

1 synonymous in legal effect as used in this article;

2 (8) Possess shall mean to receive, conceal, or otherwise
3 exercise control over; and

4 (9) Utter shall mean to issue, authenticate, transfer,
5 sell, transmit, present, use, pass, or deliver, or to attempt or
6 cause such uttering.

7 Sec. 3. Original sections 28-511.01 and 28-601, Reissue
8 Revised Statutes of Nebraska, are repealed.