

LEGISLATIVE BILL 536

Approved by the Governor June 3, 1987

Introduced by Pirsch, 10; Ashford, 6

AN ACT relating to shoplifting; to amend section 24-523, Reissue Revised Statutes of Nebraska, 1943; to provide a cause of action for shoplifting; to provide liability as prescribed; to provide that certain claims are nonassignable; to define a term; to provide an exception to the number of claims permissible in Small Claims Court; and to repeal the original section.

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

Section 1. (1)(a) Any person who commits the crime of theft by shoplifting as provided in section 28-511.01 or whose conduct is described by section 28-511.01 or (b) the parents of a minor who commits the crime of theft by shoplifting as provided in section 28-511.01 or whose conduct is described by section 28-511.01 shall be liable to the owner of the merchandise in a civil action for:

(i) Actual property damage or loss sustained as a direct result of the incident of shoplifting, which may include, but shall not be limited to, full retail value, cost of repair, or cost of replacement of the merchandise;

(ii) Costs of maintaining the action; and

(iii) Reasonable attorney's fees if such owner has retained the services of an attorney in maintaining the action and the action is not in the Small Claims Court.

(2) A conviction under any statute or ordinance shall not be a condition precedent to maintaining an action under this section.

(3) Recovery under this section may be had in addition to, and shall not be limited by, any other provision of law which limits the liability of the parents for tortious conduct of a minor. The liability of the parents and the minor shall be joint and several.

(4) This section shall not prohibit or limit any other cause of action which the owner of merchandise may have against a person who unlawfully or wrongfully takes merchandise from the owner's store or retail establishment.

(5) Judgments, but not claims, arising under

this section may be assigned.

(6) The fact that an owner of merchandise may commence an action under this section shall not limit the right of such owner to demand, in writing, that any person who is liable for damages and costs under this section remit such damages and costs prior to the commencement of an action.

(7) This section shall only apply to causes of action which accrue after the effective date of this act.

(8) For purposes of this section, minor shall mean any individual under seventeen years of age.

(9) Notwithstanding any other provision of this section, no parent shall be liable to the owner of merchandise in a civil action unless such minor is living with such parent at the time the conduct described by section 28-511.01 is committed.

Sec. 2. That section 24-523, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-523. (1) Parties in the Small Claims Court may be individuals, partnerships, corporations, unions, associations, or any other kind of organization or entity.

(2) No party shall be represented by an attorney in the Small Claims Court.

(3) An individual shall represent himself or herself in the Small Claims Court. A partnership shall be represented by a partner or one of its employees. A union shall be represented by a union member or union employee. A corporation shall be represented by one of its employees. An association shall be represented by one of its members or by an employee of the association. Any other kind of organization or entity shall be represented by one of its members or employees.

(4) Only a party, natural or otherwise, who has been a party to the transaction with the defendant for which the claim is brought may file and prosecute a claim in the Small Claims Court.

(5) No party may file an assigned claim in the Small Claims Court.

(6) No party shall file more than two claims within any calendar week nor more than ten claims in any calendar year in the Small Claims Court. This subsection shall not apply to actions brought pursuant to section 1 of this act.

(7) Notwithstanding any other provision of this section, an executor or administrator of a decedent's estate, a guardian, or a conservator may be a

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party in the Small Claims Court.

Sec. 3. That original section 24-523, Reissue Revised Statutes of Nebraska, 1943, is repealed.