

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representatives Molinaro, K. Wood, Bryant, Wallis, Riable, Young, Cash, Owens, Hall,**
5 **von Gremp, and Bennett**

A Bill

HOUSE BILL 1399

For An Act To Be Entitled

9 "AN ACT TO PROVIDE FOR A CIVIL CAUSE OF ACTION BY OWNERS
10 OR SELLERS AGAINST PERSONS CAUGHT SHOPLIFTING; AND FOR
11 OTHER PURPOSES."

Subtitle

14 "AN ACT TO PROVIDE FOR A CIVIL CAUSE OF ACTION BY OWNERS
15 OR SELLERS AGAINST PERSONS CAUGHT SHOPLIFTING."

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19 *SECTION 1. An adult or emancipated minor who takes possession of any*
20 *goods, wares or merchandise displayed or offered for sale by any wholesale or*
21 *retail store or other mercantile establishment without the consent of the*
22 *owner or seller, and with the intention of converting such goods, wares or*
23 *merchandise to his own use without having paid the purchase price thereof,*
24 *shall be subject to civil damages and penalties as set forth in Section 4 of*
25 *this act.*

27 *SECTION 2. An employee who takes possession of any cash, goods, wares*
28 *or merchandise without the consent of the owner or seller, and with the intent*
29 *of converting such cash, goods, wares or merchandise to his own use without*
30 *having paid the purchase price thereof, shall be subject to civil damages and*
31 *penalties as set forth in Section 4 of this act in addition to the actual*
32 *amount of any cash not returned or recovered.*

34 *SECTION 3. The parent or legal guardian having custody of an*
35 *unemancipated minor under the age of eighteen (18) and over the age of six (6)*

1 who takes possession of any goods, wares or merchandise displayed or offered
2 for sale by any wholesale or retail store or other mercantile establishment
3 without the consent of the owner or seller, and with the intention of
4 converting such goods, wares or merchandise to his own use without having paid
5 the purchase price thereof, shall be subject to civil damages and penalties as
6 set forth in Section 4 of this act, provided that for the purpose of this
7 section liability shall not be imposed upon any government entity or private
8 agency which has been assigned any responsibility for the minor child pursuant
9 to court order or action of the Department of Human Services. However, no
10 parent or legal guardian shall be civilly liable under the provisions of this
11 act for any offense committed by an unemancipated minor under the age of
12 eighteen (18) and over the age of six (6) who has not been in their physical
13 custody for the thirty (30) days preceding the offense.

14

15 SECTION 4. (a) Under the provisions of this act, the owner or seller
16 shall issue a written demand letter by certified mail for the return of the
17 merchandise or its retail cash equivalent, only if the merchandise has not
18 been returned or recovered, and a penalty in the amount of two hundred dollars
19 (\$200) for an adult or emancipated minor, or one hundred dollars (\$100) for an
20 unemancipated minor, to the last known address of the adult, emancipated
21 minor, employee or parent or legal guardian of the unemancipated minor in
22 question.

23 (b) If the individual to whom the written demand is sent complies with
24 the terms of the demand letter within thirty (30) days of the receipt of the
25 letter, that individual shall not be subject to further civil liability with
26 respect to that specific act of retail theft.

27 (c) If the individual to whom the written demand is sent does not
28 comply within thirty (30) days of the receipt of a demand letter, then the
29 owner or seller may bring action against the individual for the recovery of
30 civil damages and penalties in any court of competent jurisdiction, including
31 the small claims division of a municipal or district court, if the total
32 damages do not exceed the jurisdictional limit of that court. In an action
33 brought under this subsection, the owner or seller may recover the following:

34 (1) civil damages in an amount equal to the retail value of the
35 merchandise, if the merchandise is not recovered or returned; or

As Engrossed: 2/5/93 4/2/93

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