

ARKANSAS SENATE
90th General Assembly - Regular Session, 2015
Amendment Form

Subtitle of Senate Bill No. 459

TO CLARIFY THE PENALTIES FOR CERTAIN OFFENSES IN THE CRIMINAL CODE; TO REORGANIZE
CERTAIN CRIMINAL OFFENSES; AND TO MAKE TECHNICAL CORRECTIONS TO TITLE 5 OF THE
ARKANSAS CODE.

Amendment No. 1 to Senate Bill No. 459

Amend Senate Bill No. 459 as originally introduced:

Page 2, delete lines 31 through 36, and substitute the following:

"5-36-116. Shoplifting presumption – Detention and arrest of person under shoplifting presumption.

(a)(1) The knowing concealment by a person on his or her own person or on the person of another of an unpurchased tangible personal property offered for sale by a store or business establishment gives rise to a presumption that the person took the tangible personal property with the purpose of depriving the owner of the store or business establishment or another person having an interest in the tangible personal property.

(a)(1)(2)(A) A person engaging in conduct giving rise to a the presumption under § 5-36-102(e) subdivision (a)(1) of this section may be detained in a reasonable manner and for a reasonable length of time by a law enforcement officer, merchant owner of the store or business establishment, or merchant's employee or agent of the store or business establishment in order that recovery of a good may be effected to ensure the recovery of the tangible personal property.

(2)(B) The detention by a law enforcement officer, merchant owner of the store or business establishment, or merchant's employee or agent of the store or business establishment does not render the law enforcement officer, merchant owner of the store or business establishment, or merchant's employee or agent of the store or business establishment criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

(b)(1) If sufficient notice has been posted to advise patrons that an antishoplifting or inventory control device is being utilized, the activation of an antishoplifting or inventory control device as a result of a person's exiting ~~an~~ a store or business establishment or a protected area within the store or business establishment constitutes reasonable cause for the detention of the person so exiting by a law enforcement officer, the owner or operator of the of the store or business establishment, or by an agent or employee of the owner ~~or operator~~.



(2) Any detention under subdivision (b)(1) of this section shall be made only in a reasonable manner and only for a reasonable period of time sufficient for any inquiry into the circumstances surrounding the activation of the antishoplifting or inventory control device or for the recovery of a ~~good~~ the tangible personal property offered for sale.

(3) A detention under subdivision (b)(1) of this section by a law enforcement officer, ~~merchant~~ owner of the store or business establishment, or ~~merchant's~~ employee or agent of the store or business establishment does not render the law enforcement officer, ~~merchant~~ owner of the store or business establishment, or ~~merchant's~~ employee or agent of the store or business establishment criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

~~(c) As used in this section, "antishoplifting or inventory control device" means a mechanism or other device designed and operated for the purpose of detecting the removal from a mercantile establishment or similar enclosure or from a protected area within a mercantile establishment or similar enclosure.~~

~~(d)(1) Upon probable cause for believing a suspect has committed the offense of shoplifting, a law enforcement officer may arrest the person without a warrant.~~

~~(2) The~~(c) A law enforcement officer, ~~merchant~~ owner of the store or business establishment, or ~~merchant's~~ employee or agent of the store or business establishment who has observed the person ~~accused of committing the offense of shoplifting~~ engaging in conduct giving rise to the presumption under subdivision (a)(1) of this section shall provide a written statement that serves as probable cause to justify ~~the~~ an arrest if a law enforcement officer arrests the person for theft of property, § 5-36-103.

~~(3) The accused person shall be brought immediately before a magistrate and afforded an opportunity to make a bond or recognizance as in other criminal cases.~~

AND

Page 3, delete lines 1 through 36

AND

Page 4, delete lines 1 through 32"

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator D. Johnson

BPG/LNS - 03-16-2015 14:29:05

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Secretary