WEST VIRGINIA CODE: §61-3A-4A

§61-3A-4a. Criminal offenses involving theft detection shielding devices; detention.

(a) As used in this section:

(1) "Theft detection device" means any tag or other device that is used to prevent or detect theft and that is attached to merchandise held for resale by a merchant or to property of a merchant.

(2) "Theft detection device remover" means any tool or device specifically designed or manufactured to be used to remove a theft detection device from merchandise held for resale by a merchant or property of a merchant.

(3) "Theft detection shielding device" means any laminated or coated bag or device designed to shield merchandise held for resale by a merchant or property of a merchant from being detected by an electronic or magnetic theft alarm sensor.

(b) A person commits unlawful distribution of a theft detection shielding device when he or she knowingly manufactures, sells, offers to sell or distribute any theft detection shielding device.

(c) A person commits unlawful possession of a theft detection shielding device when he or she knowingly possesses any theft detection shielding device with the intent to commit theft or retail theft.

(d) A person commits unlawful possession of a theft detection shielding device remover when he or she knowingly possesses any theft detection device remover with the intent to use such tool to remove any theft detection device from any merchandise without the permission of the merchant or person owning or holding said merchandise.

(e) A person commits unlawful use of a theft detection shielding device or a theft detection shielding remover when he or she uses or attempts to use either device while committing a violation of this article.

(f) A person commits unlawful removal of a theft detection device when he or she intentionally removes any theft detection device by the use of manual force or by any tool or device, which is not specifically designed or manufactured to remove theft detection devices, from merchandise prior to purchase.

(g) Any person convicted for violating the provisions of subsections (b), (c), (d) or (e) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a county or regional jail facility for not less than thirty days nor more than one year, and fined not less than $250 nor more than $1,000.

WV Legislature

(h) Any person convicted of violating the provisions of subsection (f) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $500, and such fine shall not be suspended, or the person shall be confined in the county or regional jail not more than sixty days, or both.

(i) The activation of an anti-shoplifting or inventory control device as a result of a person exiting the establishment or a protected area within the establishment shall constitute reasonable cause for the detention of the person so exiting by the owner or operator or the establishment or by an agent or employee of the owner or operator, provided sufficient notice has been posted to advise the patrons that such a device is being utilized. Each such detention 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 device or for the recovery of goods.

(j) Such taking into custody and detention by a law-enforcement officer, merchant, or merchant's employee, if done in compliance with all the requirements of this section, does not render such law-enforcement officer, merchant, or merchant's employee criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

WV Legislature