WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1967

ENROLLED
Com. Sub. pr
HOUSE BILL No. 930

(By Mr. Payne and Mr. Seifert)

PASSED __________________________ 1967

In Effect 60 days from Passage

FILED IN THE OFFICE
ROBERT D. DALEY
SECRETARY OF STATE
THIS DATE 3-9-67
AN ACT to amend and reenact sections one, two and four, article three-a, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to shoplifting; providing definitions; imposing penalties; providing process; declaring the act of shoplifting to constitute a breach of the peace, and permitting detention upon reasonable grounds therefor.

Be it enacted by the Legislature of West Virginia:

That sections one, two and four, article three-a, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
ARTICLE 3A. SHOPLIFTING.

1 When used in this article, the following terms shall have the following meanings:

3 (1) "Shoplifting" shall consist of any one or more of the following acts:

5 (a) For any person wilfully to take possession of any merchandise offered for sale by any store with the intention of converting the same to the use of such person without paying to the owner the value thereof.

9 (b) For any person wilfully to conceal upon his person or otherwise any merchandise offered for sale by any store with the intention of converting the same to the use of such person without paying to the owner the value thereof.

14 (c) For any person wilfully to alter any label, price tag or marking upon any merchandise offered for sale by any store with the intention of depriving the owner of all or some part of the value thereof.

18 (d) For any person wilfully to transfer any merchandise offered for sale by any store from the container in or on which the same shall be displayed to any other
container with intent to deprive the owner of all or some part of the value thereof.

(2) "Store" shall mean any store or mercantile establishment in which merchandise is displayed for sale in such manner as to be readily accessible to persons shopping therein.

(3) "Merchandise" shall include goods and wares.

(4) "Owner of merchandise" shall include the owner and any other person, firm or corporation having the right to offer the same for sale as agent, consignee or in other capacity under any agreement with the owner of such merchandise.

(5) "Value of merchandise" shall mean the sale price of any merchandise which a person shall convert to his own use in committing an act of shoplifting defined in subsections (a) and (b) of this section, or in the event a person shall commit an act of shoplifting defined in either subsections (c) or (d) of this section, then the "value of merchandise" shall mean the sale price of that part of the merchandise of which the owner has been

1 If any person shall commit an act of shoplifting as defined in this article, for the first offense, he shall be guilty of a misdemeanor if the value of merchandise is less than fifty dollars and, upon conviction thereof, shall be punished by imprisonment in the county jail for not more than ninety days or by fine of not more than three hundred dollars, or by both such fine and imprisonment.

2 If any person shall commit an act of shoplifting as defined in this article, for the second offense, he shall be guilty of a misdemeanor if the value of merchandise is less than fifty dollars and, upon conviction thereof, shall be punished by imprisonment in the county jail for a period of not less than thirty days nor more than one hundred and eighty days, or by fine of not more than five hundred dollars, or by both such fine and imprisonment.

3 If any person shall commit an act of shoplifting as defined in this article, for the third or subsequent offense,
he shall be guilty of a felony regardless of the value of
merchandise involved in the first two convictions under
the provisions of this article and, upon conviction thereof,
shall be punished by imprisonment in the penitentiary
for not less than one nor more than ten years.

If any person shall commit an act of shoplifting as
defined in this article, he shall be guilty of a felony if
the value of merchandise is fifty dollars, or more, and,
upon conviction thereof, shall be punished by imprison-
ment in the penitentiary for not less than one nor more
than ten years.

In all prosecutions under this article, process shall be
issued and served in the county or out of the county where
prosecution is pending and shall have the same binding
force and effect as though the offense being prosecuted
were a felony; and all officers issued and serving such
process in or out of the county wherein the prosecution
is pending, and all witnesses from within or without the
county wherein the prosecution is pending shall be com-
pensated in like manner as though the offense were a
felony in grade.
§61-3A-4. Shoplifting to constitute breach of peace; detention.

1 An act of shoplifting as defined herein, is hereby de-
2 clared to constitute a breach of peace and any owner of
3 merchandise, his agent or employee, or any law enforce-
4 ment officer, except a constable, who has reasonable
5 ground to believe that a person has committed shoplifting,
6 may detain such person in a reasonable manner and for
7 a reasonable length of time not to exceed thirty minutes,
8 for the purpose of investigating whether or not such
9 person has committed or attempted to commit shop-
10 lifting. Such reasonable detention shall not constitute
11 an arrest nor shall it render the owner of merchandise,
12 his agent or employee, liable to the person detained.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tompkins  
Chairman Senate Committee

Clayton C. Davidson  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Jefferson Mays  
Clerk of the Senate

C.A. Blankenship  
Clerk of the House of Delegates

Howard B. Carver  
President of the Senate

H. Lathan Tidewater  
Speaker House of Delegates

The within approved this the 9th day of March, 1967.

Herbert C. Smith  
Governor
PRESENTED TO THE GOVERNOR

Date 3-7-67
Time 2:55 p.m.