

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1967



ENROLLED

Com. Sub. for

HOUSE BILL No. 930

(By Mr. Payne and Mr. Seibert)



PASSED March 2, 1967

In Effect ninety days from Passage



FILED IN THE OFFICE  
ROBERT D. BAILEY  
SECRETARY OF STATE  
THIS DATE 3-9-67

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FOR  
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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.**

**§61-3A-1. Definitions.**

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

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

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

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

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

18 (d) For any person wilfully to transfer any mer-  
19 chandise offered for sale by any store from the container  
20 in or on which the same shall be displayed to any other

21 container with intent to deprive the owner of all or some  
22 part of the value thereof.

23 (2) "Store" shall mean any store or mercantile estab-  
24 lishment in which merchandise is displayed for sale in  
25 such manner as to be readily accessible to persons shop-  
26 ping therein.

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

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

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

41 deprived in consequence of the commission of such act  
42 of shoplifting.

**§61-3A-2. Penalties, process, compensation of officers and  
witnesses.**

1 If any person shall commit an act of shoplifting as de-  
2 fined in this article, for the first offense, he shall be guilty  
3 of a misdemeanor if the value of merchandise is less than  
4 fifty dollars and, upon conviction thereof, shall be  
5 punished by imprisonment in the county jail for not more  
6 than ninety days or by fine of not more than three hun-  
7 dred dollars, or by both such fine and imprisonment.

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

16 If any person shall commit an act of shoplifting as  
17 defined in this article, for the third or subsequent offense,

18 he shall be guilty of a felony regardless of the value of  
19 merchandise involved in the first two convictions under  
20 the provisions of this article and, upon conviction thereof,  
21 shall be punished by imprisonment in the penitentiary  
22 for not less than one nor more than ten years.

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

29 In all prosecutions under this article, process shall be  
30 issued and served in the county or out of the county where  
31 prosecution is pending and shall have the same binding  
32 force and effect as though the offense being prosecuted  
33 were a felony; and all officers issued and serving such  
34 process in or out of the county wherein the prosecution  
35 is pending, and all witnesses from within or without the  
36 county wherein the prosecution is pending shall be com-  
37 pensated in like manner as though the offense were a  
38 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 Tompos  
Chairman Senate Committee

Clayton C. Davidson  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Howard Meyers  
Clerk of the Senate

Blankenship  
Clerk of the House of Delegates

Howard E. Carson  
President of the Senate

H. Lapan White  
Speaker House of Delegates

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

Hulet C. Smith  
Governor



PRESENTED TO THE  
GOVERNOR

Date 3-7-67

Time 2:55 P.M.