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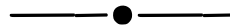
SECOND REGULAR SESSION, 2000



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4641

(By Delegate Thompson)



Passed March 11, 2000

In Effect Ninety Days from Passage

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COMMITTEE ON
LEGISLATION

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COMMITTEE ON
LEGISLATION

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FOR

H. B. 4641

(BY DELEGATE THOMPSON)

[Passed March 11, 2000; in effect ninety days from passage.]

AN ACT to amend article three-a, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section four-a, relating to creating criminal offenses involving theft detection shielding devices and theft detection device removers; definitions; penalties; right to detain person suspected of violation; and, immunity from civil or criminal liability for detainers.

Be it enacted by the Legislature of West Virginia:

That article three-a, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section four-a, to read as follows:

ARTICLE 3A. SHOPLIFTING.

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

1 (a) As used in this section:

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

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

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

14 (b) A person commits unlawful distribution of a theft
15 detection shielding device when he or she knowingly manufac-
16 tures, sells, offers to sale or distribute any theft detection
17 shielding device.

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

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

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

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

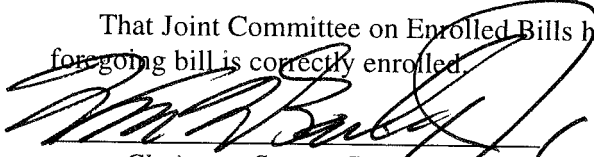
37 (g) Any person convicted for violating the provisions of
38 subsections (b), (c), (d), or (e) of this section is guilty of a
39 misdemeanor, and upon conviction thereof, shall be confined in
40 a county or regional jail facility for no less than thirty days nor
41 more than one year, and fined not less than two hundred and
42 fifty dollars nor more than one thousand dollars.

43 (h) Any person convicted of violating the provisions of
44 subsection (f) of this section is guilty of a misdemeanor, and
45 upon conviction thereof, shall be fined not less than one
46 hundred dollars nor more than five hundred dollars, and such
47 fine shall not be suspended, or the person shall be confined in
48 the county or regional jail not more than sixty days, or both.

49 (i) The activation of an anti-shoplifting or inventory control
50 device as a result of a person exiting the establishment or a
51 protected area within the establishment shall constitute reason-
52 able cause for the detention of the person so exiting by the
53 owner or operator or the establishment or by an agent or
54 employee of the owner or operator, provided sufficient notice
55 has been posted to advise the patrons that such a device is being
56 utilized. Each such detention shall be made only in a reasonable
57 manner and only for a reasonable period of time sufficient for
58 any inquiry into the circumstances surrounding the activation
59 of the device or for the recovery of goods.

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

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



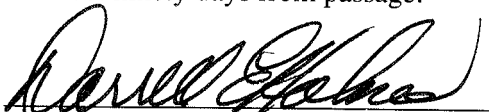
Chairman Senate Committee



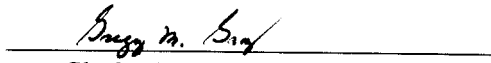
Chairman House Committee

Originating in the House.

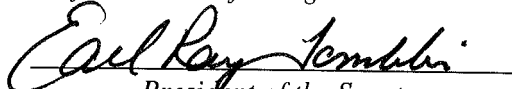
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

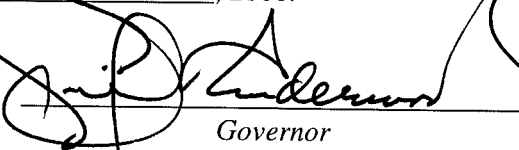


President of the Senate



Speaker of the House of Delegates

The within approved this the 2nd
day of April, 2000.



Governor

PRESENTED TO THE

GOVERNOR

Date 3/24/00

Time 3:25pm