

CHAPTER 16

AN ACT concerning penalties for shoplifting offenses, amending N.J.S.2C:20-11 and supplementing Title 2C of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.2C:20-11 is amended to read as follows:

Shoplifting.

- a. Definitions. The following definitions apply to this section:

- (1) "Shopping cart" means those push carts of the type or types which are commonly provided by grocery stores, drug stores or other retail mercantile establishments for the use of the public in transporting commodities in stores and markets and, incidentally, from the stores to a place outside the store;

- (2) "Store or other retail mercantile establishment" means a place where merchandise is displayed, held, stored or sold or offered to the public for sale;

- (3) "Merchandise" means any goods, chattels, foodstuffs or wares of any type and description, regardless of the value thereof;

- (4) "Merchant" means any owner or operator of any store or other retail mercantile establishment, or any agent, servant, employee, lessee, consignee, officer, director, franchisee or independent contractor of such owner or proprietor;

- (5) "Person" means any individual or individuals, including an agent, servant or employee of a merchant where the facts of the situation so require;

- (6) "Conceal" means to conceal merchandise so that, although there may be some notice of its presence, it is not visible through ordinary observation;

- (7) "Full retail value" means the merchant's stated or advertised price of the merchandise;

- (8) "Premises of a store or retail mercantile establishment" means and includes but is not limited to, the retail mercantile establishment; any common use areas in shopping centers and all parking areas set aside by a merchant or on behalf of a merchant for the parking of vehicles for the convenience of the patrons of such retail mercantile establishment;

- (9) "Under-ring" means to cause the cash register or other sale recording device to reflect less than the full retail value of the merchandise;

- (10) "Antishoplifting or inventory control device countermeasure" means any item or device which is designed, manufactured, modified, or altered to defeat any antishoplifting or inventory control device.

- b. Shoplifting. Shoplifting shall consist of any one or more of the following acts:

- (1) For any person purposely to take possession of, carry away, transfer or cause to be carried away or transferred, any merchandise displayed, held, stored or offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the possession, use or benefit of such merchandise or converting the same to the use of such person without paying to the merchant the full retail value thereof.

- (2) For any person purposely to conceal upon his person or otherwise any merchandise offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the processes, use or benefit of such merchandise or converting the same to the use of such person without paying to the merchant the value thereof.

- (3) For any person purposely to alter, transfer or remove any label, price tag or marking indicia of value or any other markings which aid in determining value affixed to any merchandise displayed, held, stored or offered for sale by any store or other retail mercantile establishment and to attempt to purchase such merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of all or some part of the value thereof.

- (4) For any person purposely to transfer any merchandise displayed, held, stored or offered for sale by any store or other retail merchandise establishment from the container in or on which the same shall be displayed to any other container with intent to deprive the merchant of all or some part of the retail value thereof.

- (5) For any person purposely to under-ring with the intention of depriving the merchant of the full retail value thereof.

- (6) For any person purposely to remove a shopping cart from the premises of a store or

other retail mercantile establishment without the consent of the merchant given at the time of such removal with the intention of permanently depriving the merchant of the possession, use or benefit of such cart.

c. Gradation. (1) Shoplifting constitutes a crime of the second degree under subsection b. of this section if the full retail value of the merchandise is \$75,000.00 or more.

(2) Shoplifting constitutes a crime of the third degree under subsection b. of this section if the full retail value of the merchandise exceeds \$500.00 but is less than \$75,000.00.

(3) Shoplifting constitutes a crime of the fourth degree under subsection b. of this section if the full retail value of the merchandise is at least \$200.00 but does not exceed \$500.00.

(4) Shoplifting is a disorderly persons offense under subsection b. of this section if the full retail value of the merchandise is less than \$200.00. Additionally, notwithstanding the term of imprisonment provided in N.J.S.2C:43-6 or 2C:43-8, any person convicted of a shoplifting offense shall be sentenced to perform community service as follows: for a first offense, at least ten days of community service; for a second offense, at least 15 days of community service; and for a third or subsequent offense, a maximum of 25 days of community service and any person convicted of a third or subsequent shoplifting offense shall serve a minimum term of imprisonment of not less than 90 days.

d. Presumptions. Any person purposely concealing unpurchased merchandise of any store or other retail mercantile establishment, either on the premises or outside the premises of such store or other retail mercantile establishment, shall be prima facie presumed to have so concealed such merchandise with the intention of depriving the merchant of the possession, use or benefit of such merchandise without paying the full retail value thereof, and the finding of such merchandise concealed upon the person or among the belongings of such person shall be prima facie evidence of purposeful concealment; and if such person conceals, or causes to be concealed, such merchandise upon the person or among the belongings of another, the finding of the same shall also be prima facie evidence of willful concealment on the part of the person so concealing such merchandise.

e. A law enforcement officer, or a special officer, or a merchant, who has probable cause for believing that a person has willfully concealed unpurchased merchandise and that he can recover the merchandise by taking the person into custody, may, for the purpose of attempting to effect recovery thereof, take the person into custody and detain him in a reasonable manner for not more than a reasonable time, and the taking into custody by a law enforcement officer or special officer or merchant shall not render such person criminally or civilly liable in any manner or to any extent whatsoever.

Any law enforcement officer may arrest without warrant any person he has probable cause for believing has committed the offense of shoplifting as defined in this section.

A merchant who causes the arrest of a person for shoplifting, as provided for in this section, shall not be criminally or civilly liable in any manner or to any extent whatsoever where the merchant has probable cause for believing that the person arrested committed the offense of shoplifting.

f. Any person who possesses or uses any antishoplifting or inventory control device countermeasure within any store or other retail mercantile establishment is guilty of a disorderly persons offense.

C.2C:20-11.1 Guidelines for prosecution of shoplifting offenses.

2. The Attorney General shall develop, no later than the 120th day after the effective date of this act, guidelines to ensure that the prosecution of shoplifting offenses is conducted in a uniform manner throughout the State.

3. This act shall take effect immediately.

Approved April 28, 2000.