

HOUSE BILL NO. 50

INTRODUCED BY FAGG

IN THE HOUSE

DECEMBER 23, 1992	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 4, 1993	FIRST READING.
JANUARY 7, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 8, 1993	PRINTING REPORT.
JANUARY 11, 1993	SECOND READING, DO PASS AS AMENDED.
JANUARY 13, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 75; NOES, 23.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 15, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 4, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 6, 1993	SECOND READING, CONCURRED IN.
MARCH 8, 1993	THIRD READING, CONCURRED IN. AYES, 48; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 16, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. 50

INTRODUCED BY FAGG

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A MERCHANT TO
STOP AND TEMPORARILY DETAIN A SUSPECTED SHOPLIFTER."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Temporary detention by
merchant -- liability. (1) A merchant may stop and
temporarily detain a suspected shoplifter. The merchant:

(a) shall promptly inform the person that the stop is
for investigation of shoplifting and that upon completion of
the investigation, the person will be released or turned
over to the custody of a peace officer;

(b) may demand the person's name and present or last
address and question the person in a reasonable manner for
the purpose of ascertaining whether or not the person is
guilty of shoplifting;

(c) may take into possession any merchandise for which
the purchase price has not been paid and that is in the
possession of the person or has been concealed from full
view; and

(d) may detain the person or request the person to
remain on the premises until a peace officer arrives.

(2) A stop, detention, questioning, or recovery of

merchandise under this section must be done in a reasonable
manner and time. Unless evidence of concealment is obvious
and apparent to the merchant, this section does not
authorize a search of the detained person other than a
search of the person's coat or other outer garments and any
package, bag, or other container. After the purpose of a
stop has been accomplished or 30 minutes have elapsed,
whichever occurs first, the merchant shall allow the person
to go unless the person is arrested and turned over to the
custody of a peace officer.

(3) A merchant stopping, detaining, or arresting a
person on the belief that the person is shoplifting is not
liable for damages to the person unless the merchant acts
with malice, either actual or implied, or contrary to this
section.

(4) As used in this section, the following definitions
apply:

(a) "Concealment" means any act or deception done
purposely or knowingly upon or outside the premises of a
wholesale or retail store or other mercantile establishment,
with the intent to deprive the merchant of all or part of
the value of the merchandise. The following acts or
deceptive conduct is prima facie evidence of concealment:

(i) concealing merchandise upon the person or in a
container or otherwise removing merchandise from full view

1 while upon the premises;

2 (ii) removing, changing, or altering a price tag;

3 (iii) transferring or moving any merchandise upon the
4 premises to obtain a lower price than the merchandise was
5 offered for sale for by the merchant; or

6 (iv) abandoning or disposing of any merchandise in such
7 a manner that the merchant will be deprived of all or part
8 of the value of the merchandise.

9 (b) "Shoplifting" means the theft of any goods offered
10 for sale by a wholesale or retail store or other mercantile
11 establishment.

12 NEW SECTION. **Section 2.** Codification instruction.
13 [Section 1] is intended to be codified as an integral part
14 of Title 30, chapter 11, part 3, and the provisions of Title
15 30, chapter 11, part 3, apply to [section 1].

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 50

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A MERCHANT TO
STOP AND TEMPORARILY DETAIN A SUSPECTED SHOPLIFTER."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Temporary detention by
merchant -- liability. (1) A merchant WHO HAS REASON TO
BELIEVE THAT A PERSON HAS COMMITTED OR IS IN THE PROCESS OF
COMMITTING THE OFFENSE OF THEFT may stop and temporarily
detain ~~a-suspected-shoplifter~~ THAT PERSON. The merchant:

(a) shall promptly inform the person that the stop is
for investigation of shoplifting and that upon completion of
the investigation, the person will be released or turned
over to the custody of a peace officer;

(b) may demand the person's name and present or last
address and question the person in a reasonable manner for
the purpose of ascertaining whether or not the person is
guilty of shoplifting;

(c) may take into possession any merchandise for which
the purchase price has not been paid and that is in the
possession of the person or has been concealed from full
view; and

(d) may detain the person or request the person to

remain on the premises until a peace officer arrives.

(2) A stop, detention, questioning, or recovery of
merchandise under this section must be done in a reasonable
manner and time. Unless evidence of concealment is obvious
and apparent to the merchant, this section does not
authorize a search of the detained person other than a
search of the person's coat or other outer garments and any
package, bag, or other container. After the purpose of a
stop has been accomplished or 30 minutes have elapsed,
whichever occurs first, the merchant shall allow the person
to go unless the person is arrested and turned over to the
custody of a peace officer.

(3) A merchant stopping, detaining, or arresting a
person on the belief that the person is shoplifting is not
liable for damages to the person unless the merchant acts
~~with-malice-either-actual-or-implied~~, or IN A MANNER
contrary to this section.

(4) As used in this section, the following definitions
apply:

(a) "Concealment" means any act or deception done
purposely or knowingly upon or outside the premises of a
wholesale or retail store or other mercantile establishment,
with the intent to deprive the merchant of all or part of
the value of the merchandise. The following acts or
deceptive conduct is prima facie evidence of concealment:

1 (i) concealing merchandise upon the person or in a
2 container or otherwise removing merchandise from full view
3 while upon the premises;

4 (ii) removing, changing, or altering a price tag;

5 (iii) transferring or moving any merchandise upon the
6 premises to obtain a lower price than the merchandise was
7 offered for sale for by the merchant; or

8 (iv) abandoning or disposing of any merchandise in such
9 a manner that the merchant will be deprived of all or part
10 of the value of the merchandise.

11 (b) "Shoplifting" means the theft of any goods offered
12 for sale by a wholesale or retail store or other mercantile
13 establishment.

14 NEW SECTION. Section 2. Codification instruction.

15 [Section 1] is intended to be codified as an integral part
16 of Title 30 46, chapter 11 6, part 3 5, and the provisions
17 of Title ~~307-chapter-117-part-37~~ 46 apply to [section 1].

-End-

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A MERCHANT TO
STOP AND TEMPORARILY DETAIN A SUSPECTED SHOPLIFTER."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Temporary detention by
merchant -- liability. (1) A merchant, AS DEFINED IN
30-11-301, WHO HAS REASON TO BELIEVE THAT A PERSON HAS
COMMITTED OR IS IN THE PROCESS OF COMMITTING THE OFFENSE OF
THEFT may stop and temporarily detain ~~a-suspected-shoplifter~~
THAT PERSON. The merchant:

(a) shall promptly inform the person that the stop is
for investigation of shoplifting and that upon completion of
the investigation, the person will be released or turned
over to the custody of a peace officer;

(b) may demand the person's name and present or last
address and question the person in a reasonable manner for
the purpose of ascertaining whether or not the person is
guilty of shoplifting;

(c) may take into possession any merchandise for which
the purchase price has not been paid and that is in the
possession of the person or has been concealed from full
view; and

(d) may detain the person or request the person to
remain on the premises until a peace officer arrives.

(2) A stop, detention, questioning, or recovery of
merchandise under this section must be done in a reasonable
manner and time. Unless evidence of concealment is obvious
and apparent to the merchant, this section does not
authorize a search of the detained person other than a
search of the person's coat or other outer garments and any
package, bag, or other container. After the purpose of a
stop has been accomplished or 30 minutes have elapsed,
whichever occurs first, the merchant shall allow the person
to go unless the person is arrested and turned over to the
custody of a peace officer.

(3) A merchant stopping, detaining, or arresting a
person on the belief that the person is shoplifting is not
liable for damages to the person unless the merchant acts
~~with-malice,--either--actual--or--implied,--or~~ IN A MANNER
contrary to this section.

(4) As used in this section, the following definitions
apply:

(a) "Concealment" means any act or deception done
purposely or knowingly upon or outside the premises of a
wholesale or retail store or other mercantile establishment,
with the intent to deprive the merchant of all or part of
the value of the merchandise. The following acts or

1 deceptive conduct is prima facie evidence of concealment:

2 (i) concealing merchandise upon the person or in a
3 container or otherwise removing merchandise from full view
4 while upon the premises;

5 (ii) removing, changing, or altering a price tag;

6 (iii) transferring or moving any merchandise upon the
7 premises to obtain a lower price than the merchandise was
8 offered for sale for by the merchant; or

9 (iv) abandoning or disposing of any merchandise in such
10 a manner that the merchant will be deprived of all or part
11 of the value of the merchandise.

12 (b) "Shoplifting" means the theft of any goods offered
13 for sale by a wholesale or retail store or other mercantile
14 establishment.

15 NEW SECTION. **Section 2.** Codification instruction.

16 [Section 1] is intended to be codified as an integral part
17 of Title 30 46, chapter ~~11~~ 6, part 3 5, and the provisions
18 of Title 30, ~~chapter-11, part-3~~ 46 apply to [section 1].

-End-

HOUSE BILL NO. 50

INTRODUCED BY FAGG

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A MERCHANT TO STOP AND TEMPORARILY DETAIN A SUSPECTED SHOPLIFTER."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Temporary detention by merchant -- liability. (1) A merchant, AS DEFINED IN 30-11-301, WHO HAS REASON TO BELIEVE THAT A PERSON HAS COMMITTED OR IS IN THE PROCESS OF COMMITTING THE OFFENSE OF THEFT may stop and temporarily detain a-suspected-shoplifter THAT PERSON. The merchant:

(a) shall promptly inform the person that the stop is for investigation of shoplifting and that upon completion of the investigation, the person will be released or turned over to the custody of a peace officer;

(b) may demand the person's name and present or last address and question the person in a reasonable manner for the purpose of ascertaining whether or not the person is guilty of shoplifting;

(c) may take into possession any merchandise for which the purchase price has not been paid and that is in the possession of the person or has been concealed from full view; and

(d) may detain the person or request the person to remain on the premises until a peace officer arrives.

(2) A stop, detention, questioning, or recovery of merchandise under this section must be done in a reasonable manner and time. Unless evidence of concealment is obvious and apparent to the merchant, this section does not authorize a search of the detained person other than a search of the person's coat or other outer garments and any package, bag, or other container. After the purpose of a stop has been accomplished or 30 minutes have elapsed, whichever occurs first, the merchant shall allow the person to go unless the person is arrested and turned over to the custody of a peace officer.

(3) A merchant stopping, detaining, or arresting a person on the belief that the person is shoplifting is not liable for damages to the person unless the merchant acts with--malice,--either--actual--or--implied,--or IN A MANNER contrary to this section.

(4) As used in this section, the following definitions apply:

(a) "Concealment" means any act or deception done purposely or knowingly upon or outside the premises of a wholesale or retail store or other mercantile establishment, with the intent to deprive the merchant of all or part of the value of the merchandise. The following acts or

deceptive conduct is prima facie evidence of concealment:

(i) concealing merchandise upon the person or in a container or otherwise removing merchandise from full view while upon the premises;

(ii) removing, changing, or altering a price tag;

(iii) transferring or moving any merchandise upon the premises to obtain a lower price than the merchandise was offered for sale for by the merchant; or

(iv) abandoning or disposing of any merchandise in such a manner that the merchant will be deprived of all or part of the value of the merchandise.

(b) "Shoplifting" means the theft of any goods offered for sale by a wholesale or retail store or other mercantile establishment.

NEW SECTION. Section 2. Codification instruction.

[Section 1] is intended to be codified as an integral part of Title 30 46, chapter ~~11~~ 6, part 3 5, and the provisions of Title ~~30~~, ~~chapter-11~~, ~~part-3~~ 46 apply to [section 1].

-End-