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House BILL NO. 243

INTRODUCED BY DENNY

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING CLAIMS FOR CIVIL PENALTIES FOR SHOPLIFTING TO BE ASSIGNED AND BROUGHT IN SMALL CLAIMS COURT; AMENDING SECTIONS 25-34-105, 25-35-505, AND 27-1-718, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 25-34-105, MCA, is amended to read:

"**25-34-105. Parties -- representation.** (1) Parties in the small claims court may be individuals, partnerships, corporations, unions, associations, or any other kind of organization or entity, except the state or any agency thereof of the state.

(2) A party may not be represented by an attorney unless all parties are represented by an attorney in a small claims court, ~~except as set forth in subsection (3) herein.~~

(3) ~~An individual~~ Individuals shall represent ~~himself~~ themselves in the small claims court. A partnership ~~shall~~ must be represented by a partner or one of its employees. A union ~~shall~~ must be represented by a union member or union employee. A corporation ~~shall~~ must be represented by one of its employees. An association ~~shall~~ must be represented by one of its members or by an employee of the association. Any other kind of organization or entity ~~shall~~ must be represented by one of its members or employees.

(4) ~~Only~~ Except as provided in subsection (5), only a party, natural or otherwise, who has been a party to the transaction with the defendant for which the claim is brought may file and prosecute a claim in the small claims court.

(5) ~~No~~ A party may not file an assigned claim in the small claims court unless it has been assigned pursuant to 27-1-718.

(6) Notwithstanding any other provision of this section, an executor or administrator of a decedent's estate, a guardian, or a conservator may be a party in the small claims court."

Section 2. Section 25-35-505, MCA, is amended to read:

1 **"25-35-505. Parties -- representation.** (1) Parties in the small claims court may be individuals,
2 partnerships, corporations, unions, associations, or any other kind of organization or entity, except the state
3 or any agency ~~thereof~~ of the state.

4 (2) A party may not be represented by an attorney unless all parties are represented by an attorney
5 in a small claims court.

6 (3) ~~An individual~~ Individuals may represent ~~himself~~ themselves in a small claims court. A
7 partnership may be represented by a partner or one of its employees. A union may be represented by a
8 union member or union employee. A corporation may be represented by one of its employees. An
9 association may be represented by one of its members or by an employee of the association. Any other kind
10 of organization or entity may be represented by one of its members or employees.

11 (4) ~~Only~~ Except as provided in subsection (5), only a party, natural or otherwise, who has been
12 a party to the transaction with the defendant for which the claim is brought may file and prosecute a claim
13 in the small claims court.

14 (5) ~~No~~ A party may not file an assigned claim in the small claims court unless it has been assigned
15 pursuant to 27-1-718.

16 (6) ~~No~~ A party may not file more than 10 claims in any calendar year.

17 (7) Notwithstanding any other provision of this section, a personal representative of a decedent's
18 estate, a guardian, or a conservator may be a party in the small claims court."
19

20 **Section 3.** Section 27-1-718, MCA, is amended to read:

21 **"27-1-718. Civil penalty for shoplifting.** (1) An adult or emancipated minor, as defined in
22 20-25-501, who takes possession of any goods, wares, or merchandise displayed or offered for sale by
23 any store or other mercantile establishment without the consent of the owner or seller and with the
24 intention of converting the goods to the taker's own use without having paid the purchase price of the
25 goods is liable to the owner or seller for a penalty, whether or not the goods have been returned
26 undamaged, in the amount of the greater of \$100 or the retail value of the goods, not to exceed \$500. This
27 amount is in addition to actual damages.

28 (2) When an unemancipated minor takes possession of any goods, wares, or merchandise displayed
29 or offered for sale by any store or other mercantile establishment without the consent of the owner or seller
30 and with the intention of converting the goods to the minor's own use without having paid the purchase

1 price of the goods, the minor's parent or legal guardian having custody of the minor is liable to the owner
2 or seller for a penalty, whether or not the goods have been returned undamaged, equal to the greater of
3 \$100 or the retail value of the goods, not to exceed \$500. For the purposes of this subsection (2), liability
4 may not be imposed upon any governmental or private agency that has been assigned responsibility for the
5 minor child pursuant to court order or action of the department of corrections or the department of public
6 health and human services.

7 (3) Judgments, ~~but not~~ and claims, arising under this section may be assigned.

8 (4) A conviction for violation of 45-6-301 is not a condition precedent to maintenance of a civil
9 action under this section."

10

11 NEW SECTION. **Section 4. Applicability.** [This act] applies to claims for civil penalties for
12 shoplifting based on events occurring after [the effective date of this act].

13

-END-

1 HOUSE BILL NO. 243

2 INTRODUCED BY DENNY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING CLAIMS FOR CIVIL PENALTIES FOR SHOPLIFTING
5 TO BE ASSIGNED AND BROUGHT IN SMALL CLAIMS COURT; AMENDING SECTIONS 25-34-105,
6 25-35-505, AND 27-1-718, MCA; AND PROVIDING AN APPLICABILITY DATE."
7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9

10 **Section 1.** Section 25-34-105, MCA, is amended to read:

11 **"25-34-105. Parties -- representation.** (1) Parties in the small claims court may be individuals,
12 partnerships, corporations, unions, associations, or any other kind of organization or entity, except the state
13 or any agency ~~thereof~~ of the state.

14 (2) A party may not be represented by an attorney unless all parties are represented by an attorney
15 in a small claims court, ~~except as set forth in subsection (3) herein.~~

16 (3) ~~An individual~~ Individuals shall represent ~~himself~~ themselves in the small claims court. A
17 partnership ~~shall~~ must be represented by a partner or one of its employees. A union ~~shall~~ must be
18 represented by a union member or union employee. A corporation ~~shall~~ must be represented by one of its
19 employees. An association ~~shall~~ must be represented by one of its members or by an employee of the
20 association. Any other kind of organization or entity ~~shall~~ must be represented by one of its members or
21 employees.

22 (4) ~~Only~~ Except as provided in subsection (5), only a party, natural or otherwise, who has been
23 a party to the transaction with the defendant for which the claim is brought may file and prosecute a claim
24 in the small claims court.

25 (5) ~~No~~ A party may not file an assigned claim in the small claims court unless it has been assigned
26 pursuant to 27-1-718.

27 (6) Notwithstanding any other provision of this section, an executor or administrator of a
28 decedent's estate, a guardian, or a conservator may be a party in the small claims court."
29

30 **Section 2.** Section 25-35-505, MCA, is amended to read:

1 **"25-35-505. Parties -- representation.** (1) Parties in the small claims court may be individuals,
2 partnerships, corporations, unions, associations, or any other kind of organization or entity, except the state
3 or any agency ~~thereof~~ of the state.

4 (2) A party may not be represented by an attorney unless all parties are represented by an attorney
5 in a small claims court.

6 (3) ~~An individual~~ Individuals may represent ~~himself~~ themselves in a small claims court. A
7 partnership may be represented by a partner or one of its employees. A union may be represented by a
8 union member or union employee. A corporation may be represented by one of its employees. An
9 association may be represented by one of its members or by an employee of the association. Any other kind
10 of organization or entity may be represented by one of its members or employees.

11 (4) ~~Only~~ Except as provided in subsection (5), only a party, natural or otherwise, who has been
12 a party to the transaction with the defendant for which the claim is brought may file and prosecute a claim
13 in the small claims court.

14 (5) ~~No~~ A party may not file an assigned claim in the small claims court unless it has been assigned
15 pursuant to 27-1-718.

16 (6) ~~No~~ A EXCEPT FOR CLAIMS UNDER 27-1-718, A party may not file more than 10 claims in any
17 calendar year.

18 (7) Notwithstanding any other provision of this section, a personal representative of a decedent's
19 estate, a guardian, or a conservator may be a party in the small claims court."
20

21 **Section 3.** Section 27-1-718, MCA, is amended to read:

22 **"27-1-718. Civil penalty for shoplifting.** (1) An adult or emancipated minor, as defined in
23 20-25-501, who takes possession of any goods, wares, or merchandise displayed or offered for sale by
24 any store or other mercantile establishment without the consent of the owner or seller and with the
25 intention of converting the goods to the taker's own use without having paid the purchase price of the
26 goods is liable to the owner or seller for a penalty, whether or not the goods have been returned
27 undamaged, in the amount of the greater of \$100 or the retail value of the goods, not to exceed \$500. This
28 amount is in addition to actual damages.

29 (2) When an unemancipated minor takes possession of any goods, wares, or merchandise displayed
30 or offered for sale by any store or other mercantile establishment without the consent of the owner or seller

1 and with the intention of converting the goods to the minor's own use without having paid the purchase
2 price of the goods, the minor's parent or legal guardian having custody of the minor is liable to the owner
3 or seller for a penalty, whether or not the goods have been returned undamaged, equal to the greater of
4 \$100 or the retail value of the goods, not to exceed \$500. For the purposes of this subsection (2), liability
5 may not be imposed upon any governmental or private agency that has been assigned responsibility for the
6 minor child pursuant to court order or action of the department of corrections or the department of public
7 health and human services.

8 (3) Judgments, ~~but not~~ and claims, arising under this section may be assigned.

9 (4) A conviction for violation of 45-6-301 is not a condition precedent to maintenance of a civil
10 action under this section."
11

12 NEW SECTION. **Section 4. Applicability.** [This act] applies to claims for civil penalties for
13 shoplifting based on events occurring after [the effective date of this act].

14 -END-

1 HOUSE BILL NO. 243

2 INTRODUCED BY DENNY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING CLAIMS FOR CIVIL PENALTIES FOR SHOPLIFTING
5 TO BE ASSIGNED AND BROUGHT IN SMALL CLAIMS COURT; AMENDING SECTIONS 25-34-105,
6 25-35-505, AND 27-1-718, MCA; AND PROVIDING AN APPLICABILITY DATE."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
10 **Section 1.** Section 25-34-105, MCA, is amended to read:

11 **"25-34-105. Parties -- representation.** (1) Parties in the small claims court may be individuals,
12 partnerships, corporations, unions, associations, or any other kind of organization or entity, except the state
13 or any agency ~~thereof of the state~~.

14 (2) A party may not be represented by an attorney unless all parties are represented by an attorney
15 in a small claims court, ~~except as set forth in subsection (3) herein~~.

16 (3) ~~An individual~~ Individuals shall represent ~~himself~~ themselves in the small claims court. A
17 partnership ~~shall~~ must be represented by a partner or one of its employees. A union ~~shall~~ must be
18 represented by a union member or union employee. A corporation ~~shall~~ must be represented by one of its
19 employees. An association ~~shall~~ must be represented by one of its members or by an employee of the
20 association. Any other kind of organization or entity ~~shall~~ must be represented by one of its members or
21 employees.

22 (4) ~~Only~~ Except as provided in subsection (5), only a party, natural or otherwise, who has been
23 a party to the transaction with the defendant for which the claim is brought may file and prosecute a claim
24 in the small claims court.

25 (5) ~~No~~ A party may not file an assigned claim in the small claims court unless it has been assigned
26 pursuant to 27-1-718.

27 (6) Notwithstanding any other provision of this section, an executor or administrator of a
28 decedent's estate, a guardian, or a conservator may be a party in the small claims court."

29
30 **Section 2.** Section 25-35-505, MCA, is amended to read:

1 **"25-35-505. Parties -- representation.** (1) Parties in the small claims court may be individuals,
2 partnerships, corporations, unions, associations, or any other kind of organization or entity, except the state
3 or any agency ~~thereof~~ of the state.

4 (2) A party may not be represented by an attorney unless all parties are represented by an attorney
5 in a small claims court.

6 (3) ~~An individual~~ Individuals may represent ~~himself~~ themselves in a small claims court. A
7 partnership may be represented by a partner or one of its employees. A union may be represented by a
8 union member or union employee. A corporation may be represented by one of its employees. An
9 association may be represented by one of its members or by an employee of the association. Any other kind
10 of organization or entity may be represented by one of its members or employees.

11 (4) ~~Only~~ Except as provided in subsection (5), only a party, natural or otherwise, who has been
12 a party to the transaction with the defendant for which the claim is brought may file and prosecute a claim
13 in the small claims court.

14 (5) ~~No~~ A party may not file an assigned claim in the small claims court unless it has been assigned
15 pursuant to 27-1-718.

16 (6) ~~No~~ A EXCEPT FOR CLAIMS UNDER 27-1-718, A party may not file more than 10 claims in any
17 calendar year.

18 (7) Notwithstanding any other provision of this section, a personal representative of a decedent's
19 estate, a guardian, or a conservator may be a party in the small claims court."
20

21 **Section 3.** Section 27-1-718, MCA, is amended to read:

22 **"27-1-718. Civil penalty for shoplifting.** (1) An adult or emancipated minor, as defined in
23 20-25-501, who takes possession of any goods, wares, or merchandise displayed or offered for sale by
24 any store or other mercantile establishment without the consent of the owner or seller and with the
25 intention of converting the goods to the taker's own use without having paid the purchase price of the
26 goods is liable to the owner or seller for a penalty, whether or not the goods have been returned
27 undamaged, in the amount of the greater of \$100 or the retail value of the goods, ~~not to exceed~~ \$500. This
28 amount is in addition to actual damages.

29 (2) When an unemancipated minor takes possession of any goods, wares, or merchandise displayed
30 or offered for sale by any store or other mercantile establishment without the consent of the owner or seller

1 and with the intention of converting the goods to the minor's own use without having paid the purchase
 2 price of the goods, the minor's parent or legal guardian having custody of the minor is liable to the owner
 3 or seller for a penalty, whether or not the goods have been returned undamaged, equal to the greater of
 4 \$100 or the retail value of the goods, not to exceed \$500. For the purposes of this subsection (2), liability
 5 may not be imposed upon any governmental or private agency that has been assigned responsibility for the
 6 minor child pursuant to court order or action of the department of corrections or the department of public
 7 health and human services.

8 (3) Judgments, ~~but not~~ and claims, arising under this section may be assigned.

9 (4) A conviction for violation of 45-6-301 is not a condition precedent to maintenance of a civil
 10 action under this section."

11

12 NEW SECTION. **Section 4. Applicability.** [This act] applies to claims for civil penalties for
 13 shoplifting based on events occurring after [the effective date of this act].

14

-END-

1 HOUSE BILL NO. 243

2 INTRODUCED BY DENNY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING CLAIMS FOR CIVIL PENALTIES FOR SHOPLIFTING
5 TO BE ASSIGNED AND BROUGHT IN SMALL CLAIMS COURT; AMENDING SECTIONS 25-34-105,
6 25-35-505, AND 27-1-718, MCA; AND PROVIDING AN APPLICABILITY DATE."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
10 Section 1. Section 25-34-105, MCA, is amended to read:

11 "25-34-105. Parties -- representation. (1) Parties in the small claims court may be individuals,
12 partnerships, corporations, unions, associations, or any other kind of organization or entity, except the state
13 or any agency ~~thereof of the state.~~

14 (2) A party may not be represented by an attorney unless all parties are represented by an attorney
15 in a small claims court, ~~except as set forth in subsection (3) herein.~~

16 (3) ~~An individual~~ Individuals shall represent ~~himself~~ themselves in the small claims court. A
17 partnership ~~shall~~ must be represented by a partner or one of its employees. A union ~~shall~~ must be
18 represented by a union member or union employee. A corporation ~~shall~~ must be represented by one of its
19 employees. An association ~~shall~~ must be represented by one of its members or by an employee of the
20 association. Any other kind of organization or entity ~~shall~~ must be represented by one of its members or
21 employees.

22 (4) ~~Only~~ Except as provided in subsection (5), only a party, natural or otherwise, who has been
23 a party to the transaction with the defendant for which the claim is brought may file and prosecute a claim
24 in the small claims court.

25 (5) ~~No~~ A party may not file an assigned claim in the small claims court unless it has been assigned
26 pursuant to 27-1-718.

27 (6) Notwithstanding any other provision of this section, an executor or administrator of a
28 decedent's estate, a guardian, or a conservator may be a party in the small claims court."

29
30 Section 2. Section 25-35-505, MCA, is amended to read:

1 **"25-35-505. Parties -- representation.** (1) Parties in the small claims court may be individuals,
 2 partnerships, corporations, unions, associations, or any other kind of organization or entity, except the state
 3 or any agency ~~thereof~~ of the state.

4 (2) A party may not be represented by an attorney unless all parties are represented by an attorney
 5 in a small claims court.

6 (3) ~~An individual~~ Individuals may represent ~~himself~~ themselves in a small claims court. A
 7 partnership may be represented by a partner or one of its employees. A union may be represented by a
 8 union member or union employee. A corporation may be represented by one of its employees. An
 9 association may be represented by one of its members or by an employee of the association. Any other kind
 10 of organization or entity may be represented by one of its members or employees.

11 (4) ~~Only~~ Except as provided in subsection (5), only a party, natural or otherwise, who has been
 12 a party to the transaction with the defendant for which the claim is brought may file and prosecute a claim
 13 in the small claims court.

14 (5) ~~No~~ A party may not file an assigned claim in the small claims court unless it has been assigned
 15 pursuant to 27-1-718.

16 (6) ~~No~~ A EXCEPT FOR CLAIMS UNDER 27-1-718, A party may not file more than 10 claims in any
 17 calendar year.

18 (7) Notwithstanding any other provision of this section, a personal representative of a decedent's
 19 estate, a guardian, or a conservator may be a party in the small claims court."
 20

21 **Section 3.** Section 27-1-718, MCA, is amended to read:

22 **"27-1-718. Civil penalty for shoplifting.** (1) An adult or emancipated minor, as defined in
 23 20-25-501, who takes possession of any goods, wares, or merchandise displayed or offered for sale by
 24 any store or other mercantile establishment without the consent of the owner or seller and with the
 25 intention of converting the goods to the taker's own use without having paid the purchase price of the
 26 goods is liable to the owner or seller for a penalty, whether or not the goods have been returned
 27 undamaged, in the amount of the greater of \$100 or the retail value of the goods, not to exceed \$500. This
 28 amount is in addition to actual damages.

29 (2) When an unemancipated minor takes possession of any goods, wares, or merchandise displayed
 30 or offered for sale by any store or other mercantile establishment without the consent of the owner or seller

1 and with the intention of converting the goods to the minor's own use without having paid the purchase
2 price of the goods, the minor's parent or legal guardian having custody of the minor is liable to the owner
3 or seller for a penalty, whether or not the goods have been returned undamaged, equal to the greater of
4 \$100 or the retail value of the goods, not to exceed \$500. For the purposes of this subsection (2), liability
5 may not be imposed upon any governmental or private agency that has been assigned responsibility for the
6 minor child pursuant to court order or action of the department of corrections or the department of public
7 health and human services.

8 (3) Judgments, ~~but not~~ and claims, arising under this section may be assigned.

9 (4) A conviction for violation of 45-6-301 is not a condition precedent to maintenance of a civil
10 action under this section."
11

12 **NEW SECTION. Section 4. Applicability.** [This act] applies to claims for civil penalties for
13 shoplifting based on events occurring after [the effective date of this act].
14

-END-

HOUSE BILL NO. 243

INTRODUCED BY DENNY

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING CLAIMS FOR CIVIL PENALTIES FOR SHOPLIFTING TO BE ASSIGNED AND BROUGHT IN SMALL CLAIMS COURT; AMENDING SECTIONS 25-34-105, 25-35-505, AND 27-1-718, MCA; AND PROVIDING AN APPLICABILITY DATE."

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Section 1. Section 25-34-105, MCA, is amended to read:

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(2) A party may not be represented by an attorney unless all parties are represented by an attorney in a small claims court, except as set forth in subsection (3) herein.

(3) ~~An individual~~ Individuals shall represent ~~himself~~ themselves in the small claims court. A partnership shall must be represented by a partner or one of its employees. A union shall must be represented by a union member or union employee. A corporation shall must be represented by one of its employees. An association shall must be represented by one of its members or by an employee of the association. Any other kind of organization or entity shall must be represented by one of its members or employees.

(4) ~~Only~~ Except as provided in subsection (5), only a party, natural or otherwise, who has been a party to the transaction with the defendant for which the claim is brought may file and prosecute a claim in the small claims court.

(5) ~~No~~ A party may not file an assigned claim in the small claims court unless it has been assigned pursuant to 27-1-718.

(6) Notwithstanding any other provision of this section, an executor or administrator of a decedent's estate, a guardian, or a conservator may be a party in the small claims court."

Section 2. Section 25-35-505, MCA, is amended to read:



1 **"25-35-505. Parties -- representation.** (1) Parties in the small claims court may be individuals,
2 partnerships, corporations, unions, associations, or any other kind of organization or entity, except the state
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4 (2) A party may not be represented by an attorney unless all parties are represented by an attorney
5 in a small claims court.

6 (3) ~~An individual~~ Individuals may represent ~~himself~~ themselves in a small claims court. A
7 partnership may be represented by a partner or one of its employees. A union may be represented by a
8 union member or union employee. A corporation may be represented by one of its employees. An
9 association may be represented by one of its members or by an employee of the association. Any other kind
10 of organization or entity may be represented by one of its members or employees.

11 (4) ~~Only~~ Except as provided in subsection (5), only a party, natural or otherwise, who has been
12 a party to the transaction with the defendant for which the claim is brought may file and prosecute a claim
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17 calendar year.

18 (7) Notwithstanding any other provision of this section, a personal representative of a decedent's
19 estate, a guardian, or a conservator may be a party in the small claims court."
20

21 **Section 3.** Section 27-1-718, MCA, is amended to read:

22 **"27-1-718. Civil penalty for shoplifting.** (1) An adult or emancipated minor, as defined in
23 20-25-501, who takes possession of any goods, wares, or merchandise displayed or offered for sale by
24 any store or other mercantile establishment without the consent of the owner or seller and with the
25 intention of converting the goods to the taker's own use without having paid the purchase price of the
26 goods is liable to the owner or seller for a penalty, whether or not the goods have been returned
27 undamaged, in the amount of the greater of \$100 or the retail value of the goods, not to exceed \$500. This
28 amount is in addition to actual damages.

29 (2) When an unemancipated minor takes possession of any goods, wares, or merchandise displayed
30 or offered for sale by any store or other mercantile establishment without the consent of the owner or seller

1 and with the intention of converting the goods to the minor's own use without having paid the purchase
2 price of the goods, the minor's parent or legal guardian having custody of the minor is liable to the owner
3 or seller for a penalty, whether or not the goods have been returned undamaged, equal to the greater of
4 \$100 or the retail value of the goods, not to exceed \$500. For the purposes of this subsection (2), liability
5 may not be imposed upon any governmental or private agency that has been assigned responsibility for the
6 minor child pursuant to court order or action of the department of corrections or the department of public
7 health and human services.

8 (3) Judgments, ~~but not~~ and claims, arising under this section may be assigned.

9 (4) A conviction for violation of 45-6-301 is not a condition precedent to maintenance of a civil
10 action under this section."

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12 NEW SECTION. **Section 4. Applicability.** [This act] applies to claims for civil penalties for
13 shoplifting based on events occurring after [the effective date of this act].

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