

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

SENATE BILL 1476

AN ACT

AMENDING SECTION 13-1805, ARIZONA REVISED STATUTES; RELATING TO
SHOPLIFTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-1805, Arizona Revised Statutes, is amended to
3 read:

4 13-1805. Shoplifting; detaining suspect; defense to wrongful
5 detention; civil action by merchant; public
6 services; classification

7 A. A person commits shoplifting if, while in an establishment in
8 which merchandise is displayed for sale, the person knowingly obtains such
9 goods of another with the intent to deprive that person of such goods by:

10 1. Removing any of the goods from the immediate display or from any
11 other place within the establishment without paying the purchase price; or

12 2. Charging the purchase price of the goods to a fictitious person
13 or any person without that person's authority; or

14 3. Paying less than the purchase price of the goods by some trick
15 or artifice such as altering, removing, substituting or otherwise
16 disfiguring any label, price tag or marking; or

17 4. Transferring the goods from one container to another; or

18 5. Concealment.

19 B. A person is presumed to have the necessary culpable mental state
20 pursuant to subsection A of this section if the person does either of the
21 following:

22 1. Knowingly conceals on himself or another person unpurchased
23 merchandise of any mercantile establishment while within the mercantile
24 establishment.

25 2. Uses an artifice, instrument, container, device or other article
26 to facilitate the shoplifting.

27 C. A merchant, or a merchant's agent or employee, with reasonable
28 cause, may detain on the premises in a reasonable manner and for a
29 reasonable time any person who is suspected of shoplifting as prescribed
30 in subsection A of this section for questioning or summoning a law
31 enforcement officer.

32 D. Reasonable cause is a defense to a civil or criminal action
33 against a peace officer, a merchant or an agent or employee of the
34 merchant for false arrest, false or unlawful imprisonment or wrongful
35 detention.

36 E. If a minor engages in conduct that violates subsection A of this
37 section, notwithstanding the fact that the minor may not be held
38 responsible because of the person's minority, any merchant who is injured
39 by the shoplifting of the minor may bring a civil action against the
40 parent or legal guardian of the minor under either section 12-661 or
41 12-692.

42 F. Any merchant who is injured by the shoplifting of an adult or
43 emancipated minor in violation of subsection A of this section may bring a
44 civil action against the adult or emancipated minor pursuant to section
45 12-691.

1 G. NOTWITHSTANDING ANY OTHER LAW, THIS SECTION DOES NOT PRECLUDE A
2 MERCHANT, WHETHER DIRECTLY OR THROUGH AN INDEPENDENT EDUCATIONAL PROVIDER,
3 FROM DOING ANY OF THE FOLLOWING, INCLUDING WHILE A PERSON WHO IS SUSPECTED
4 OF VIOLATING SUBSECTION A OF THIS SECTION IS DETAINED BY THE MERCHANT:

5 1. OFFERING A PERSON WHO IS SUSPECTED OF VIOLATING SUBSECTION A OF
6 THIS SECTION AN OPPORTUNITY TO COMPLETE A PRECOMPLAINT EDUCATION PROGRAM
7 IN LIEU OF MAKING OR FILING A REPORT OF THEFT WITH A LAW ENFORCEMENT
8 AGENCY.

9 2. INFORMING THE PERSON OF RELEVANT CRIMINAL AND CIVIL REMEDIES
10 THAT ARE AVAILABLE TO THIS STATE AND THE MERCHANT.

11 3. REDUCING OR WAIVING THE FEE FOR THE PRECOMPLAINT EDUCATION
12 PROGRAM BASED ON THE PERSON'S ABILITY TO PAY.

13 H. A MERCHANT WHO OFFERS PRECOMPLAINT EDUCATION PROGRAMS:

14 1. MAY NOT BE COMPENSATED FOR OFFERING A PRECOMPLAINT EDUCATION
15 PROGRAM TO A PERSON WHO IS SUSPECTED OF VIOLATING SUBSECTION A OF THIS
16 SECTION.

17 2. MAY NOT OFFER THE PROGRAM TO A PERSON WHO THE MERCHANT KNOWS HAS
18 PREVIOUSLY BEEN CONVICTED OF A VIOLATION OF SUBSECTION A OF THIS SECTION
19 OR WAS PREVIOUSLY OFFERED AN OPPORTUNITY TO PARTICIPATE IN A PRECOMPLAINT
20 EDUCATION PROGRAM.

21 3. MUST PROVIDE OR REQUIRE THE INDEPENDENT EDUCATIONAL PROVIDER TO
22 PROVIDE TO LOCAL LAW ENFORCEMENT AGENCIES WRITTEN NOTICE THAT THE MERCHANT
23 IS OFFERING A PRECOMPLAINT EDUCATION PROGRAM.

24 4. MUST COORDINATE WITH LOCAL LAW ENFORCEMENT AND PROSECUTORS AND
25 ON REQUEST PROVIDE INFORMATION REGARDING THE PRECOMPLAINT EDUCATION
26 PROGRAM, INCLUDING CRITERIA FOR PARTICIPATION AND COURSE CONTENT. ANY
27 INFORMATION RECEIVED BY LAW ENFORCEMENT AND PROSECUTORS IS CONFIDENTIAL
28 BUSINESS INFORMATION AND IS NOT A PUBLIC RECORD.

29 5. MUST FACILITATE DATA SHARING WITH LAW ENFORCEMENT TO ASSIST THE
30 INVESTIGATION AND PROSECUTION OF CRIMINAL ACTIVITY.

31 ~~G.~~ I. In imposing sentence on a person who is convicted of
32 violating this section, the court may require any person to perform public
33 services designated by the court in addition to or in lieu of any fine
34 that the court might impose.

35 ~~H.~~ J. Shoplifting property with a value of two thousand dollars or
36 more, shoplifting property during any continuing criminal episode or
37 shoplifting property if done to promote, further or assist any criminal
38 street gang or criminal syndicate is a class 5 felony. Shoplifting
39 property with a value of one thousand dollars or more but less than two
40 thousand dollars is a class 6 felony. Shoplifting property valued at less
41 than one thousand dollars is a class 1 misdemeanor, unless the property is
42 a firearm in which case the shoplifting is a class 6 felony. For the
43 purposes of this subsection, "continuing criminal episode" means theft of
44 property with a value of one thousand five hundred dollars or more if

1 committed during at least three separate incidences within a period of
2 ninety consecutive days.

3 ~~I.~~ K. A person who in the course of shoplifting uses an artifice,
4 instrument, container, device or other article with the intent to
5 facilitate shoplifting or who commits shoplifting and who has previously
6 committed or been convicted within the past five years of two or more
7 offenses involving burglary, shoplifting, robbery, organized retail theft
8 or theft is guilty of a class 4 felony.