

REFERENCE TITLE: **shoplifting; prior offenses**

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1412

Introduced by
Senators Gowan: Shamp; Representative Wilmeth

AN ACT

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

(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. In imposing sentence on a person who is convicted of violating
2 this section, the court may require any person to perform public services
3 designated by the court in addition to or in lieu of any fine that the
4 court might impose.

5 H. Shoplifting property with a value of ~~two thousand dollars~~ \$2,000
6 or more, shoplifting property during any continuing criminal episode or
7 shoplifting property if done to promote, further or assist any criminal
8 street gang or criminal syndicate is a class 5 felony. Shoplifting
9 property with a value of ~~one thousand dollars~~ \$1,000 or more but less than
10 ~~two thousand dollars~~ \$2,000 is a class 6 felony. Shoplifting property
11 valued at less than ~~one thousand dollars~~ \$1,000 is a class 1 misdemeanor,
12 unless the property is a firearm in which case the shoplifting is a class
13 6 felony. For the purposes of this subsection, "continuing criminal
14 episode" means theft of property with a value of ~~one thousand five hundred~~
15 ~~dollars~~ \$1,500 or more if committed during at least three separate
16 incidences within a period of ninety consecutive days.

17 I. A person who in the course of shoplifting uses an artifice,
18 instrument, container, device or other article with the intent to
19 facilitate shoplifting or who commits shoplifting and who has previously
20 committed or been convicted within the past five years of two or more
21 offenses involving burglary, shoplifting, robbery, organized retail theft
22 or theft is guilty of a class 4 felony. ANY TIME THE PERSON SPENT ON
23 ABSCONDER STATUS WHILE ON PROBATION, ON ESCAPE STATUS OR INCARCERATED IS
24 EXCLUDED IN CALCULATING IF THE PERSON HAS PREVIOUSLY COMMITTED OR BEEN
25 CONVICTED WITHIN THE PAST FIVE YEARS OF TWO OR MORE OFFENSES INVOLVING
26 BURGLARY, SHOPLIFTING, ROBBERY, ORGANIZED RETAIL THEFT OR THEFT. FOR THE
27 PURPOSES OF THIS SUBSECTION, "ESCAPE" MEANS EITHER OF THE FOLLOWING:

28 1. A DEPARTURE FROM CUSTODY OR FROM A JUVENILE SECURE CARE
29 FACILITY, A JUVENILE DETENTION FACILITY OR AN ADULT CORRECTIONAL FACILITY
30 IN WHICH A PERSON IS HELD OR DETAINED, WITH KNOWLEDGE THAT THE DEPARTURE
31 IS NOT ALLOWED, OR THE FAILURE TO RETURN TO CUSTODY OR DETENTION FOLLOWING
32 A TEMPORARY LEAVE GRANTED FOR A SPECIFIC PURPOSE OR FOR A LIMITED PERIOD.

33 2. A FAILURE TO REPORT AS ORDERED TO CUSTODY OR DETENTION TO BEGIN
34 SERVING A TERM OF INCARCERATION.