

1 SB120
2 196525-1
3 By Senator Chambliss
4 RFD: Governmental Affairs
5 First Read: 19-MAR-19

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8 SYNOPSIS: This bill would establish the crime of theft
9 by shoplifting and would prescribe criminal
10 penalties based on the monetary value of the
11 property taken.

12 Amendment 621 of the Constitution of Alabama
13 of 1901, now appearing as Section 111.05 of the
14 Official Recompilation of the Constitution of
15 Alabama of 1901, as amended, prohibits a general
16 law whose purpose or effect would be to require a
17 new or increased expenditure of local funds from
18 becoming effective with regard to a local
19 governmental entity without enactment by a 2/3 vote
20 unless: it comes within one of a number of
21 specified exceptions; it is approved by the
22 affected entity; or the Legislature appropriates
23 funds, or provides a local source of revenue, to
24 the entity for the purpose.

25 The purpose or effect of this bill would be
26 to require a new or increased expenditure of local
27 funds within the meaning of the amendment. However,

1 the bill does not require approval of a local
2 governmental entity or enactment by a 2/3 vote to
3 become effective because it comes within one of the
4 specified exceptions contained in the amendment.

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT

9
10 Relating to crimes and offenses; to establish the
11 crime of theft by shoplifting; and in connection therewith
12 would have as its purpose or effect the requirement of a new
13 or increased expenditure of local funds within the meaning of
14 Amendment 621 of the Constitution of Alabama of 1901, now
15 appearing as Section 111.05 of the Official Recompilation of
16 the Constitution of Alabama of 1901, as amended.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. As used in this act, the following terms
19 shall have the following meanings:

20 (1) CONCEAL. To place merchandise in a manner that
21 is not visible through ordinary observation.

22 (2) MERCHANDISE. An item of tangible personal
23 property that is displayed, held, stored, or offered for sale
24 within a retail establishment.

25 (3) MERCHANT. An owner or operator of a retail
26 establishment or an agent, employee, lessee, officer, or
27 director of the owner or operator.

1 (4) PREMISES OF A RETAIL ESTABLISHMENT. The retail
2 establishment, common use areas in shopping centers, and
3 parking areas designated by a merchant or on behalf of a
4 merchant for the parking of motor vehicles for the convenience
5 of the patrons of the retail establishment.

6 (5) VALUE. The actual retail price of merchandise
7 prior to the commission of the crime of theft by shoplifting.

8 Section 2. (a) A person commits the crime of theft
9 by shoplifting when the person, acting alone or in concert
10 with another person, with the intent to appropriate
11 merchandise of a retail establishment without paying for the
12 merchandise or to deprive the merchant of the retail
13 establishment of the merchandise of all or part of the value
14 of the merchandise, knowingly does any of the following:

15 (1) Conceals upon his or her person or in another
16 manner and takes possession, or attempts to take possession,
17 of merchandise of the retail establishment.

18 (2) Alters, transfers, or removes the label, price
19 tag, marking, indicia of value, or any other markings that aid
20 in determining value affixed to merchandise in a retail
21 establishment, and purchases, or attempts to purchase, the
22 merchandise at less than its value.

23 (3) Transfers merchandise in a retail establishment
24 from one container to another with the intent to purchase the
25 merchandise at less than its value.

1 (4) Causes the cash register or other sales
2 recording device to reflect less than the value of the
3 merchandise of a retail establishment.

4 (5) Fails to scan the barcode and pay for
5 merchandise at a self-checkout register.

6 (6) Alters, bypasses, disables, shields, or removes
7 any security or alarm device attached to or housing
8 merchandise prior to the purchase of the merchandise.

9 (b) (1) A violation of subsection (a) shall be deemed
10 prima facie evidence that the person intended to deprive the
11 merchant of all or part of the full value of the merchandise
12 without paying the full value of the merchandise.

13 (2) The unaltered price tag or other marking on the
14 merchandise, or duly identified photographs of the
15 merchandise, shall be prima facie evidence of the
16 merchandise's actual retail value and ownership.

17 (c) Prosecution for the commission of theft by
18 shoplifting may be commenced in any county where the offense
19 occurred or in which the appropriated merchandise was
20 disposed.

21 Section 3. (a) Theft by shoplifting which exceeds
22 two thousand five hundred dollars (\$2,500) in value
23 constitutes theft by shoplifting in the first degree.

24 (b) Theft by shoplifting in the first degree is a
25 Class B felony.

26 Section 4. (a) Theft by shoplifting which exceeds
27 one thousand five hundred dollars (\$1,500) in value but does

1 not exceed two thousand five hundred dollars (\$2,500) in value
2 constitutes theft by shoplifting in the second degree.

3 (b) Theft by shoplifting of a firearm, rifle, or
4 shotgun which does not exceed two thousand five hundred
5 dollars (\$2,500) in value constitutes theft by shoplifting in
6 the second degree.

7 (c) Theft by shoplifting in the second degree is a
8 Class C felony.

9 Section 5. (a) Theft by shoplifting which exceeds
10 five hundred dollars (\$500) in value but does not exceed one
11 thousand five hundred dollars (\$1,500) in value constitutes
12 theft by shoplifting in the third degree.

13 (b) Theft by shoplifting in the third degree is a
14 Class D felony.

15 Section 6. (a) Theft by shoplifting which does not
16 exceed five hundred dollars (\$500) in value constitutes theft
17 by shoplifting in the fourth degree.

18 (b) Theft by shoplifting in the fourth degree is a
19 Class A misdemeanor.

20 Section 7. Although this bill would have as its
21 purpose or effect the requirement of a new or increased
22 expenditure of local funds, the bill is excluded from further
23 requirements and application under Amendment 621, now
24 appearing as Section 111.05 of the Official Recompilation of
25 the Constitution of Alabama of 1901, as amended, because the
26 bill defines a new crime or amends the definition of an
27 existing crime.

1 Section 8. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.