

ENGROSSED HOUSE  
BILL NO. 1542

By: Settle, Adair, Benson,  
Cotner, Dunlap,  
Kinnamon, Mitchell,  
Morgan, Sullivan (John)  
and Tyler of the House

and

Robinson of the Senate

An Act relating to crimes and punishments; amending  
21 O.S. 1991, Section 1731.1, which relates to  
shoplifting; expanding scope of law to include  
conversion of money; authorizing issuance of demand  
letter for return of property or monetary  
equivalent, prior to bringing civil action;  
authorizing demand letter to include demand for  
repayment of costs up to certain limit; increasing  
certain damage assessments; providing that criminal  
conviction is not condition precedent for filing  
civil action; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 1991, Section 1731.1, is  
amended to read as follows:

Section 1731.1 A. As used in this section:

1. "Merchant" means an owner or operator of any mercantile  
establishment, and includes the merchant's employees, servants,  
security agents or other agents;

2. "Mercantile establishment" means any place where merchandise is displayed, held or offered for sale, either at retail or wholesale;

3. "Unemancipated minor" means any unmarried person under eighteen (18) years of age under direct supervision and care of the parent or legal guardian of the minor; and

4. "Emancipated minor" means any person under eighteen (18) who is married and/or not under direct supervision and care of the parent or legal guardian of the minor.

B. An adult or emancipated minor who takes possession of any goods, wares, or merchandise displayed or offered for sale by any wholesale or retail store or other mercantile establishment without the consent of the owner, seller, or merchant and with the intention of converting such goods, wares, or merchandise to his own use without having paid the purchase price thereof, shall be liable in a civil action for the retail price of the merchandise if it is unsalable or the percentage of the diminished value of the merchandise due to the conversion together with attorney fees and court costs. An adult or emancipated minor who unlawfully takes possession of any money belonging to any wholesale or retail store or other mercantile establishment with the intention of converting such money to the person's own use shall be liable in a civil action for the value of the money taken, together with attorney fees and court costs.

C. The parent or legal guardian having custody of an unemancipated minor who takes possession of any goods, wares, or merchandise displayed or offered for sale by any wholesale or retail store or other mercantile establishment without the consent of the owner, seller, or merchant, and with the intention of converting such goods, wares, or merchandise to his own use without having paid the purchase price thereof shall be liable in a civil action for the retail price of the merchandise if it is unsalable or the percentage

of the diminished value of the merchandise due to the conversion together with attorney fees and court costs. The parent or legal guardian of an unemancipated minor who unlawfully takes possession of any money belonging to any wholesale or retail store or other mercantile establishment with the intention of converting such money to the minor's own use shall be liable in a civil action for the value of the money taken, together with attorney fees and court costs.

D. Prior to bringing a civil action pursuant to this section, the owner, seller or merchant may issue a written demand letter by certified mail for the return of the money or merchandise or its cash equivalent, if the money or merchandise has not been returned or recovered. The owner, seller or merchant also may demand repayment for any costs, not to exceed Two Hundred Dollars (\$200.00), that the owner, seller or merchant has incurred in trying to recover the money or merchandise. If the individual to whom the written demand is sent complies with the terms of the demand letter within thirty (30) days of the receipt of the letter, that individual shall not be subject to further civil liability for that specific act of conversion. If the individual to whom the written demand is sent does not comply within thirty (30) days of the receipt of the demand letter, the owner, seller or merchant may bring action pursuant to the provisions of this section.

E. An adult, emancipated minor or unemancipated minor against whom judgment is rendered for unlawfully taking money from any wholesale or retail store or other mercantile establishment or for taking possession of any goods, wares or merchandise displayed or offered for sale by any wholesale or retail store or other mercantile establishment without the consent of the owner, seller or merchant and with the intention of converting such goods, wares or merchandise to his or her own use without having paid the purchase price thereof, may also be required to pay exemplary damages.

~~E.~~ F. In lieu of the exemplary damages prescribed by subsection ~~D~~ E of this section, any adult, emancipated minor or unemancipated minor against whom a judgment for exemplary damages has been rendered hereunder may be required to perform public services designated by the court; provided, that in no event shall any such person be required to perform less than the number of hours of such public service necessary to satisfy the damages assessed by the court at the federal minimum wage prevailing in the state at the time of judgment, but in no case less than ~~Fifty Dollars (\$50.00)~~ Two Hundred Dollars (\$200.00) nor more than ~~Five Hundred Dollars (\$500.00)~~ Two Thousand Five Hundred Dollars (\$2,500.00).

~~F.~~ G. The provisions of this section are in addition to criminal penalties and other civil remedies and shall not limit merchants or other persons from electing to pursue criminal penalties and other civil remedies, so long as a double recovery does not result. A conviction for violation of a criminal statute shall not be a condition precedent to maintenance of a civil action pursuant to this section.

~~G.~~ H. For the purpose of this section, liability shall not be imposed upon any governmental entity, private agency, or foster parent assigned responsibility for the minor child pursuant to court order or action of the Department of Human Services.

~~H.~~ I. Notwithstanding any other provision of law, a civil action or proceeding pursuant to this section may be commenced at any time within two (2) years after the conduct in violation of a provision of this section terminates or the cause of action accrues. If a criminal prosecution is brought by the state or by the United States to punish, prevent, or restrain any criminal action contained or described in this section, the running of the period of limitations prescribed by this section shall be suspended during the pendency of such prosecution, action, or proceeding and for one (1) year following its termination or conclusion.

~~I.~~ J. An action for recovery of damages, pursuant to this section, may be brought in the small claims division of the district court where the damages sought are within the jurisdictional limits of the court, or in any other appropriate court.

SECTION 2. This act shall become effective November 1, 1995.

Passed the House of Representatives the 7th day of March, 1995.

Speaker of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1995.

President of the Senate