

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

3 COMMITTEE SUBSTITUTE  
4 FOR  
5 HOUSE BILL NO. 1668

By: Roggow

6  
7 COMMITTEE SUBSTITUTE

8 An Act relating to crimes and punishments; amending  
9 21 O.S. 1991, Section 1731.1, which relates to  
10 shoplifting; specifying amount of damages to be  
11 assessed under certain circumstances; and providing  
12 an effective date.

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

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

16 Section 1731.1 A. As used in this section:

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

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

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

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

29 B. An adult or emancipated minor who takes possession of any  
30 goods, wares, or merchandise displayed or offered for sale by any  
31 wholesale or retail store or other mercantile establishment without  
32 the consent of the owner, seller, or merchant and with the intention

1 of converting such goods, wares, or merchandise to ~~his own~~ personal  
2 use without having paid the purchase price thereof, shall be liable  
3 in a civil action for the retail price of the merchandise ~~if it is~~  
4 ~~unsalable or the percentage of the diminished value of the~~  
5 ~~merchandise due to the conversion~~ plus damages of not less than One  
6 Hundred Dollars (\$100.00) nor more than Two Hundred Fifty Dollars  
7 (\$250.00) together with attorney fees and court costs.

8 C. The parent or legal guardian having custody of an  
9 unemancipated minor who takes possession of any goods, wares, or  
10 merchandise displayed or offered for sale by any wholesale or retail  
11 store or other mercantile establishment without the consent of the  
12 owner, seller, or merchant, and with the intention of converting  
13 such goods, wares, or merchandise to ~~his own~~ personal use without  
14 having paid the purchase price thereof shall be liable in a civil  
15 action for the retail price of the merchandise ~~if it is unsalable or~~  
16 ~~the percentage of the diminished value of the merchandise due to the~~  
17 ~~conversion~~ plus damages of not less than One Hundred Dollars  
18 (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00) together  
19 with attorney fees and court costs.

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

28 E. ~~In lieu of the exemplary damages prescribed by subsection D~~  
29 ~~of this section, any~~ Any adult, emancipated minor or unemancipated  
30 minor against whom a judgment ~~for exemplary damages~~ has been  
31 rendered hereunder may be required to perform public services  
32 designated by the court; provided, that in no event shall any such

1 person be required to perform less than the number of hours of such  
2 public service necessary to satisfy the damages assessed by the  
3 court at the federal minimum wage prevailing in the state at the  
4 time of judgment, but in no case less than Fifty Dollars (\$50.00)  
5 nor more than Five Hundred Dollars (\$500.00).

6 F. The provisions of this section are in addition to criminal  
7 penalties and other civil remedies and shall not limit merchants or  
8 other persons from electing to pursue criminal penalties and other  
9 civil remedies, so long as a double recovery does not result.

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

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

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

28 SECTION 2. This act shall become effective November 1, 1999.

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30 47-1-6269 LAC 6/11/15

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