

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 1247

S. P. 365

In Senate, March 11, 1969

Referred to Committee on Judiciary. Sent down for concurrence and 1,000 ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Mills of Franklin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Defining the Crime of Theft Known as Shopstealing and
Establishing Rights and Penalties.

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 17, c. 114, additional. Title 17 of the Revised Statutes is amended by adding a new chapter 114, to read as follows:

CHAPTER 114
SHOPSTEALING

§ 3511. Definition

A person who willfully takes possession of any goods, wares or merchandise offered for sale or on display in any retail store or other mercantile establishment without the consent of the seller and without having paid the purchase price thereof, is guilty of shopstealing.

§ 3512. Right of detention

Any merchant, his agent or employee, who has reasonable grounds or probable cause to believe that a person has committed or is committing or is attempting to commit the crime of shopstealing by the wrongful taking of merchandise from a mercantile establishment, may detain such a person in a reasonable manner and for a reasonable length of time for all or any of the following purposes:

1. Investigation. Conducting an investigation, including reasonable interrogation of the detained person, as to whether there has been a wrongful taking of merchandise;

2. **Informing.** Informing a peace officer or other law enforcement official of the facts relevant to such detention;

3. **Search.** Performing a reasonable search of the detained person and his belongings when it appears that the merchandise may otherwise be lost;

4. **Recovery.** Recovering the merchandise believed to have been wrongfully taken.

§ 3513. Immunity from suit

In any action for false arrest, false imprisonment, unlawful detention, defamation of character, assault, battery, trespass, slander, libel, malicious prosecution, invasion of civil rights, invasion of privacy, brought by a person by reason of having been detained on or in the immediate vicinity of the premises of a retail mercantile or wholesale establishment for the purpose of investigating or questioning as to the ownership of any merchandise, it shall be a defense to such action that the person was detained in a reasonable manner and for not more than a reasonable time to permit such investigation or questioning by a police officer or by the owner of the retail mercantile establishment, his employee or agent and that such police officer, owner, employee or agent had reasonable grounds to believe that the person so detained was committing or attempting to commit larceny of merchandise on the premises.

As used in this section "reasonable grounds" includes, but is not limited to, knowledge that a person had concealed possession of unpurchased merchandise of the retail mercantile establishment, and a "reasonable time" means the time necessary to permit the person detained to make a statement or to refuse to make a statement, and the time necessary to examine employees and records of the mercantile establishment relative to the ownership of the merchandise.

§ 3514. Presumption of guilt

Any person willfully concealing unpurchased goods or merchandise of any store or other mercantile establishment, either on the premises or outside the premises of such store, shall be prima facie presumed to have so concealed such article with the intention of converting the same to his own use without paying the purchase price thereof. The presence of such unpurchased goods or merchandise concealed upon the person or among the belongings of such person shall be prima facie evidence of willful concealment and, if such person conceals, or causes to be concealed, such unpurchased goods or merchandise upon the person or among the belongings of another, the presence of the same shall be prima facie evidence of willful concealment on the part of the person so concealing such goods.

§ 3515. Penalties

1. **First offense.** Any person committing the first offense of shop-stealing when the value of the goods, wares or merchandise taken is less than \$100, shall be guilty of a misdemeanor and, upon conviction thereof, shall

be punished by a fine of not less than \$25 nor more than \$300, or by imprisonment for not less than 5 days nor more than 6 months, or by both.

2. Second offense. Upon commission of a 2nd offense when the value of the goods, wares or merchandise taken is less than \$100, the person committing same shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$50 nor more than \$500 or by imprisonment for not less than 30 days nor more than one year, or by both.

3. Third offense. Upon commission of a 3rd or any subsequent offense, regardless of the value of the goods, wares or merchandise taken, the person committing same shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment in the State Prison for a term of not less than one year nor more than 5 years.

4. Value. When the value of the goods, wares or merchandise taken shall be \$100 or more, any person who shall commit the offense of shop-stealing, whether same shall be a first or subsequent offense, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment in the State Prison for a term of not less than one nor more than 5 years.