

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 894**

FINAL READING

Introduced by Pirsch, 4.

Read first time January 12, 2010

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crimes and offenses; to amend section  
2 28-511.01, Reissue Revised Statutes of Nebraska, and  
3 section 28-101, Revised Statutes Supplement, 2009; to  
4 change provisions relating to shoplifting; to prohibit  
5 possession of any store security device countermeasure;  
6 to define a term; to provide a penalty; to harmonize  
7 provisions; and to repeal the original sections.  
8 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 28-101, Revised Statutes Supplement,  
2 2009, is amended to read:

3           28-101 Sections 28-101 to 28-1356 and section 3 of this  
4 act shall be known and may be cited as the Nebraska Criminal Code.

5           Sec. 2. Section 28-511.01, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           28-511.01 (1) A person commits the crime of theft by  
8 shoplifting when he or she, with the intent of appropriating goods  
9 or merchandise to his or her own use without paying for the ~~same~~  
10 goods or merchandise or to deprive the owner of possession of such  
11 ~~property~~ goods or merchandise or its retail value, in whole or in  
12 part, does any of the following:

13           (a) Conceals or takes possession of the goods or  
14 merchandise of any store or retail establishment;

15           (b) Alters the price tag or other price marking on goods  
16 or merchandise of any store or retail establishment;

17           (c) Transfers the goods or merchandise of any store or  
18 retail establishment from one container to another;

19           (d) Interchanges the label or price tag from one item of  
20 a good or of merchandise with a label or price tag for another item  
21 of a good or of merchandise; ~~or~~

22           (e) Causes the cash register or other sales recording  
23 device to reflect less than the retail price of the goods or  
24 merchandise; ~~or-~~

25           (f) Alters, bypasses, disables, shields, or removes any

1 security or alarm device attached to or housing any goods or  
2 merchandise of any store, including the use or possession of a  
3 security device countermeasure as defined in section 3 of this act,  
4 prior to purchase of the goods or merchandise.

5 (2) In any prosecution for theft by shoplifting,  
6 photographs of the shoplifted property may be accepted as prima  
7 facie evidence as to the identity of the property. Such photograph  
8 shall be accompanied by a written statement containing the  
9 following:

10 (a) A description of the property;

11 (b) The name of the owner or owners of the property;

12 (c) The time, date, and location where the shoplifting  
13 occurred;

14 (d) The time and date the photograph was taken;

15 (e) The name of the photographer; and

16 (f) Verification by the arresting officer.

17 The purpose of this subsection is to allow the owner  
18 or owners of shoplifted property the use of such property during  
19 pending criminal prosecutions.

20 Prior to allowing the use of the shoplifted property as  
21 provided in this section, legal counsel for the alleged shoplifter  
22 shall have a reasonable opportunity to inspect and appraise the  
23 property and may file a motion for retention of the property,  
24 which motion shall be granted if there is any reasonable basis for  
25 believing that the photographs and accompanying affidavit may be

1 misleading.

2           Sec. 3. (1) It shall be unlawful for any person, other  
3 than an authorized agent of a store or retail establishment, to  
4 possess, in that store, any security device countermeasure.

5           (2) For purposes of this section, security device  
6 countermeasure means a device which bypasses, disables, or removes  
7 an electronic or magnetic theft alarm sensor.

8           (3) Any person violating this section is guilty of a  
9 Class II misdemeanor.

10           Sec. 4. Original section 28-511.01, Reissue Revised  
11 Statutes of Nebraska, and section 28-101, Revised Statutes  
12 Supplement, 2009, are repealed.