

ONE HUNDRED FOURTH LEGISLATURE - FIRST SESSION - 2015
COMMITTEE STATEMENT
LB215

Hearing Date: Wednesday January 28, 2015
Committee On: Judiciary
Introducer: Craighead
One Liner: Change provisions relating to theft

Roll Call Vote - Final Committee Action:
Indefinitely postponed

Vote Results:

Aye:	7	Senators Chambers, Ebke, Krist, Morfeld, Pansing Brooks, Seiler, Williams
Nay:	1	Senator Coash
Absent:		
Present Not Voting:		

Verbal Testimony:

Proponents:

SEN. JONI CRAIGHEAD
STEVE GRABOWSKI

LEE POLIKOV
KATHY SIEFKEN

Opponents:

TODD WEST

Neutral:

LT. GEORGE MERITHEW

Representing:

INTRODUCER
SARPY COUNTY SHERIFF, NE SHERIFF'S ASSOCIATION
NE COUNTY ATTORNEY'S ASSOCIATION
NEBRASKA GROCERY INDUSTRY ASSOICATION

Representing:

NEBRASKA CRIMINAL DEFENSE ATTORNEYS

Representing:

OMAHA POLICE DEPARTMENT

Summary of purpose and/or changes:

LB215 would allow photographs to be used as evidence in a prosecution for any type of theft. Currently, photographs may only be accepted as evidence as to the identity of the property in a prosecution for theft by shoplifting.

LB215 transfers most of the language regarding the use of photographs as evidence out of the theft by shoplifting statute (page 2, line 24 through page 3, line 2). This language, with minimal changes, is moved to Sec. 28-518 (page 4, lines 7 through 16):

(9) In any prosecution for theft under sections 28-509 to 28-518, photographs of the item involved may be accepted as prima facie evidence as to the identity of the property. Such photograph shall be accompanied by a written statement containing the following:

- (a) A description of the property;
 - (b) The name of the owner or owners of the property;
 - (c) The time, date, and location where the theft occurred;
 - (d) The time and date the photograph was taken;
 - (e) The name of the photographer; and
 - (f) Verification by the arresting officer.
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Some of the language in 28-518 (page 4, lines 17 through 30) is new:

(10) The item involved may be returned by a law enforcement agency to the owner if:

- (a) An appropriately identified photograph and written statement are filed and retained by the law enforcement agency;
- (b) Satisfactory proof of ownership of the property is shown by the owner;
- (c) A declaration of ownership is signed under penalty of perjury; and
- (d) A receipt for the property is obtained from the owner upon delivery by the law enforcement agency.

(11) If the item involved is valued at over two hundred dollars, the owner shall retain the item involved for at least fourteen days after its return to the owner to allow the defendant an opportunity to file a motion to inspect the property.

Some of the language currently in Sec. 28-511.01 (page 3, lines 3 through 11) is eliminated entirely:

The purpose of this subsection is to allow the owner or owners of shoplifted property the use of such property during pending criminal prosecutions. Prior to allowing the use of the shoplifted property as provided in this section, legal counsel for the alleged shoplifter shall have a reasonable opportunity to inspect and appraise the property and may file a motion for retention of the property, which motion shall be granted if there is any reasonable basis for believing that the photographs and accompanying affidavit may be misleading.

Note:

Also see LB605, section 25, which would raise the threshold for theft amounts, as recommended by the Council of State Governments "Justice Reinvestment Initiative".

Les Seiler, Chairperson