

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 215

Introduced by Craighead, 6; Ebke, 32; Groene, 42; Lindstrom, 18.

Read first time January 13, 2015

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend sections
- 2 28-511.01 and 28-518, Revised Statutes Cumulative Supplement, 2014;
- 3 to change provisions relating to theft; and to repeal the original
- 4 sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-511.01, Revised Statutes Cumulative
2 Supplement, 2014, is amended to read:

3 28-511.01 ~~(1)~~ A person commits the crime of theft by shoplifting
4 when he or she, with the intent of appropriating goods or merchandise to
5 his or her own use without paying for the goods or merchandise or to
6 deprive the owner of possession of such goods or merchandise or its
7 retail value, in whole or in part, does any of the following:

8 (1 a) Conceals or takes possession of the goods or merchandise of
9 any store or retail establishment;

10 (2 b) Alters the price tag or other price marking on goods or
11 merchandise of any store or retail establishment;

12 (3 c) Transfers the goods or merchandise of any store or retail
13 establishment from one container to another;

14 (4 d) Interchanges the label or price tag from one item of a good or
15 of merchandise with a label or price tag for another item of a good or of
16 merchandise;

17 (5 e) Causes the cash register or other sales recording device to
18 reflect less than the retail price of the goods or merchandise; or

19 (6 f) Alters, bypasses, disables, shields, or removes any security
20 or alarm device attached to or housing any goods or merchandise of any
21 store, including the use or possession of a security device
22 countermeasure as defined in section 28-511.03, prior to purchase of the
23 goods or merchandise.

24 ~~(2) In any prosecution for theft by shoplifting, photographs of the~~
25 ~~shoplifted property may be accepted as prima facie evidence as to the~~
26 ~~identity of the property. Such photograph shall be accompanied by a~~
27 ~~written statement containing the following:~~

28 ~~(a) A description of the property;~~

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

30 ~~(c) The time, date, and location where the shoplifting occurred;~~

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

1 ~~(e) The name of the photographer; and~~

2 ~~(f) Verification by the arresting officer.~~

3 ~~The purpose of this subsection is to allow the owner or owners of~~
4 ~~shoplifted property the use of such property during pending criminal~~
5 ~~prosecutions.~~

6 ~~Prior to allowing the use of the shoplifted property as provided in~~
7 ~~this section, legal counsel for the alleged shoplifter shall have a~~
8 ~~reasonable opportunity to inspect and appraise the property and may file~~
9 ~~a motion for retention of the property, which motion shall be granted if~~
10 ~~there is any reasonable basis for believing that the photographs and~~
11 ~~accompanying affidavit may be misleading.~~

12 ~~Sec. 2. Section 28-518, Revised Statutes Cumulative Supplement,~~
13 ~~2014, is amended to read:~~

14 ~~28-518 (1) Theft constitutes a Class III felony when the value of~~
15 ~~the item ~~thing~~ involved is over one thousand five hundred dollars.~~

16 ~~(2) Theft constitutes a Class IV felony when the value of the item~~
17 ~~~~thing~~ involved is five hundred dollars or more, but not over one thousand~~
18 ~~five hundred dollars.~~

19 ~~(3) Theft constitutes a Class I misdemeanor when the value of the~~
20 ~~item ~~thing~~ involved is more than two hundred dollars, but less than five~~
21 ~~hundred dollars.~~

22 ~~(4) Theft constitutes a Class II misdemeanor when the value of the~~
23 ~~item ~~thing~~ involved is two hundred dollars or less.~~

24 ~~(5) For any second or subsequent conviction under subsection (3) of~~
25 ~~this section, any person so offending shall be guilty of a Class IV~~
26 ~~felony.~~

27 ~~(6) For any second conviction under subsection (4) of this section,~~
28 ~~any person so offending shall be guilty of a Class I misdemeanor, and for~~
29 ~~any third or subsequent conviction under subsection (4) of this section,~~
30 ~~the person so offending shall be guilty of a Class IV felony.~~

31 ~~(7) Amounts taken pursuant to one scheme or course of conduct from~~

1 one or more persons may be aggregated in the indictment or information in
2 determining the classification of the offense, except that amounts may
3 not be aggregated into more than one offense.

4 (8) In any prosecution for theft under sections 28-509 to 28-518,
5 value shall be an essential element of the offense that must be proved
6 beyond a reasonable doubt.

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

11 (a) A description of the property;

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

13 (c) The time, date, and location where the theft 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 (10) The item involved may be returned by a law enforcement agency
18 to the owner if:

19 (a) An appropriately identified photograph and written statement are
20 filed and retained by the law enforcement agency;

21 (b) Satisfactory proof of ownership of the property is shown by the
22 owner;

23 (c) A declaration of ownership is signed under penalty of perjury;
24 and

25 (d) A receipt for the property is obtained from the owner upon
26 delivery by the law enforcement agency.

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

31 Sec. 3. Original sections 28-511.01 and 28-518, Revised Statutes

1 Cumulative Supplement, 2014, are repealed.