

SPEAKER MARVEL: The motion is carried. The resolution is adopted. Okay the next item is #5, Final Reading. Under Final Reading the first item is LB 69 and Senator Marsh is excused until she arrives so we go to the next item. Next item is LB 126.

CLERK: Mr. President, I have a motion on the desk. Senator Chambers would move to return LB 126 to Select File for specific amendment. (Read Chambers amendment as found on page 1004 of the Legislative Journal.)

SPEAKER MARVEL: The Chair recognizes Senator Chambers on a motion to return the bill.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, for those of you who may not be aware of what this bill is, it is the shoplifting bill. Its intent was to establish definitions of shoplifting and to determine those types of actions that are covered by the bill. Also added was a provision that careless merchants want. It allows a photograph to take the place of the evidence itself. My motion as I've made all the way across the board on this bill is to strike that provision. By striking it you will not hinder what the bill's intent is. You will not touch the definition of those things that constitute shoplifting, nor will you lessen any penalties. All that you will do is to maintain intact the current system of evidence gathering and presentation. There is no other situation in the laws of Nebraska where a photograph is prima facie evidence. Photographs can be used along with other types of evidence but when you accord it prima facie status you, in effect, shift the burden of proof from the state to the one who is accused. The accused must prove that something is not the case rather than the state having to prove that something is the case. If a person should falsely be accused of shoplifting and a photograph is offered there is no way for that person to dispute the value of the item contained in the photographs because he or she has no direct knowledge of it. Under the bill the photograph would be allowed in as evidence and for getting the status it is accorded, the photographer would have to give some kind of certification, the store owner would have to give some kind of certification and all those things are hearsay. So the defense would be entitled to require the actual attendance in court of the owner who has given a certification and the photographer which could extend the amount of time given and taken in prosecuting these matters and it could also be a burden on those who think this is going to be a boon to them. So I'm asking that you return this bill and strike this provision. By striking it you will not disturb anything in the law as it exists now. You will not change the nature of evidence or the presentation of it. But if you do not strike it you're making what would have to be described as a radical change in the law of evidence. So I am asking