

LEGISLATURE OF NEBRASKA  
NINETY-EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1061**

Introduced by Cudaback, 36; Mossey, 3

Read first time January 13, 2004

Committee: Judiciary

A BILL

1 FOR AN ACT relating to shoplifting; to amend section 25-21,194,  
2 Reissue Revised Statutes of Nebraska; to provide  
3 liability for costs of recovering merchandise; to  
4 eliminate obsolete language; and to repeal the original  
5 section.  
6 Be it enacted by the people of the State of Nebraska,

1                   Section 1.   Section 25-21,194, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3                   25-21,194. (1) (a) Any person who commits the crime of  
4 theft by shoplifting as provided in section 28-511.01 or whose  
5 conduct is described by section 28-511.01 or (b) the parents of a  
6 minor who commits the crime of theft by shoplifting as provided in  
7 section 28-511.01 or whose conduct is described by section  
8 28-511.01 shall be liable to the owner of the merchandise in a  
9 civil action for all of the following:

10                   (i) Actual property damage or loss sustained as a direct  
11 result of the incident of shoplifting, which may include, but shall  
12 not be limited to, full retail value, cost of repair, or cost of  
13 replacement of the merchandise;

14                   (ii) Costs of up to three hundred dollars for recovery of  
15 the merchandise;

16                   (iii) Costs of maintaining the action; and

17                   ~~(iii)~~ (iv) Reasonable attorney's fees if such owner has  
18 retained the services of an attorney in maintaining the action and  
19 the action is not in the Small Claims Court.

20                   (2) A conviction under any statute or ordinance shall not  
21 be a condition precedent to maintaining an action under this  
22 section.

23                   (3) Recovery under this section may be had in addition  
24 to, and shall not be limited by, any other provision of law which  
25 limits the liability of the parents for tortious conduct of a  
26 minor. The liability of the parents and the minor shall be joint  
27 and several.

28                   (4) This section shall not prohibit or limit any other

1 cause of action which the owner of merchandise may have against a  
2 person who unlawfully or wrongfully takes merchandise from the  
3 owner's store or retail establishment.

4 (5) Judgments, but not claims, arising under this section  
5 may be assigned.

6 (6) The fact that an owner of merchandise may commence an  
7 action under this section shall not limit the right of such owner  
8 to demand, in writing, that any person who is liable for damages  
9 and costs under this section remit such damages and costs prior to  
10 the commencement of an action.

11 (7) ~~This section shall only apply to causes of action~~  
12 ~~which accrue after August 30, 1987.~~

13 ~~(8)~~ For purposes of this section, minor ~~shall mean~~ means  
14 any individual under seventeen years of age.

15 ~~(9)~~ (8) Notwithstanding any other provision of this  
16 section, no parent shall be liable to the owner of merchandise in a  
17 civil action unless such minor is living with such parent at the  
18 time the conduct described by section 28-511.01 is committed.

19 Sec. 2. Original section 25-21,194, Reissue Revised  
20 Statutes of Nebraska, is repealed.