

E AND R AMENDMENTS TO LB 894

Introduced by Enrollment and Review Committee: Nordquist, 7,
Chairperson

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 28-101, Revised Statutes Supplement,
4 2009, is amended to read:

5 28-101 Sections 28-101 to 28-1356 and section 3 of this
6 act shall be known and may be cited as the Nebraska Criminal Code.

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

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

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

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

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

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

1 (e) Causes the cash register or other sales recording
2 device to reflect less than the retail price of the goods or
3 merchandise; or-

4 (f) Alters, bypasses, disables, shields, or removes any
5 security or alarm device attached to or housing any goods or
6 merchandise of any store, including the use or possession of a
7 security device countermeasure as defined in section 3 of this act,
8 prior to purchase of the goods or merchandise.

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

- 14 (a) A description of the property;
- 15 (b) The name of the owner or owners of the property;
- 16 (c) The time, date, and location where the shoplifting
17 occurred;
- 18 (d) The time and date the photograph was taken;
- 19 (e) The name of the photographer; and
- 20 (f) Verification by the arresting officer.

21 The purpose of this subsection is to allow the owner
22 or owners of shoplifted property the use of such property during
23 pending criminal prosecutions.

24 Prior to allowing the use of the shoplifted property as
25 provided in this section, legal counsel for the alleged shoplifter
26 shall have a reasonable opportunity to inspect and appraise the
27 property and may file a motion for retention of the property,

1 which motion shall be granted if there is any reasonable basis for
2 believing that the photographs and accompanying affidavit may be
3 misleading.

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

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

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

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