

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, I hope you will turn with me to the provision that I intend to seek your help in striking. I am not opposed to the definition of shoplifting and all of the other things that are in the bill as amended by the committee amendment but here is what I am concerned about, and I am going to read the provision. "In any prosecution for theft by shoplifting, photographs of the shoplifted property may be accepted as prima facie evidence as to the identity of the property. Such photographs shall be accompanied by a written statement containing the following:" Then it gives various types of information and it offers this sentence to take away opposition. "The purpose of this subsection is to allow the owner or owners of shoplifted property the use of such property during pending criminal prosecution." Members of the Legislature, this means that if I am accused of a crime, the evidence can be consumed or disposed of and I would have no way of having that evidence which was being used against me brought into court. They could bring a picture and say this is it. We tell you to take our word that this is what Chambers stole. It has this much value and we want you to accept it. By being prima facie evidence that means I now must prove that I am innocent or prove that this is not the items stolen. But if I am an innocent person, what they are putting me in the position of doing is saying that actually I know it is not the property because I took it. And having taken it I know this photograph is not a proper representation. So they put you in a position of being unable to establish anything in the way of your innocence and I don't see that this provision is necessary to have a workable shoplifting statute. Most items that are shoplifted are not unique, meaning that there is only one of them and if this particular item which was lifted was offered in evidence it would hurt the merchant from whom it was taken, earrings, at the small end let's say, or a suit coat at the big end. Remember we're not talking about people going into warehouses and walking off with an entire section of garments. We're not talking about burglary where you break into a store and take large amounts of items. We're talking about what you would leave a store with concealed on your person somehow and I don't see the necessity of grafting this provision into the criminal law where the item which is to be the evidence does not have to be presented. I've never heard of a case of somebody being accused of assault with a deadly weapon where the weapon did not have to be produced but only a photograph. I think this is not a good thing to do. It was done obviously by request or at the request of the merchants. Nobody was able to demonstrate that absence of this provision would harm the prosecution of shoplifters in any way, shape or form. On the other hand, I gave a handout this morning that relates to