

CHAPTER 6
RETAIL THEFT

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11-6-1: DEFINITIONS:

For the purposes of this Chapter, the words and phrases defined in Sections 11-6-1-1 through 11-6-1-11 have the meanings ascribed to them in those Sections unless a contrary meaning is clear from the context.

11-6-1-1: CONCEAL:

To "conceal" merchandise means that, although there may be some notice of its presence, that merchandise is not visible through ordinary observation.

11-6-1-2: FULL RETAIL VALUE:

"Full retail value" means the merchant's stated or advertised price of the merchandise.

11-6-1-3: MERCHANDISE:

"Merchandise" means any item of tangible personal property.

11-6-1-4: MERCHANT:

"Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee or independent contractor of such owner or operator.

11-6-1-5: MINOR:

"Minor" means a person who is less than nineteen (19) years of age, is unemancipated and resides with his or her parents or legal guardian.

11-6-1-6: PERSON:

"Person" means any natural person or individual.

11-6-1-7: PEACE OFFICER:

"Peace officer" means any person who by virtue of his or her office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses.

11-6-1-8: PREMISES OF RETAIL MERCANTILE ESTABLISHMENT:

"Premises of a retail mercantile establishment" includes, but is not limited to, the retail mercantile establishment; any common use areas in shopping centers and all parking areas set aside by a merchant or on behalf of a merchant for the parking of vehicles for the convenience of the patrons of such retail mercantile establishment.

11-6-1-9: RETAIL MERCANTILE ESTABLISHMENT:

"Retail mercantile establishment" means any place where merchandise is displayed, held, stored or offered for sale to the public.

11-6-1-10: SHOPPING CART:

"Shopping cart" means those push carts of the type or types which are commonly provided by grocery stores, drug stores or other retail mercantile establishments for the use of the public in transporting commodities in stores and markets and, incidentally, from the stores to a place outside the store.

11-6-1-11: UNDER-RING:

"Under-ring" means to cause the cash register or other sales recording device to reflect less than the full retail value of the merchandise.

11-6-1-12: THEFT DETECTION SHIELDING DEVICE:

"Theft detection shielding device" means any laminated or coated bag or device designed and intended to shield merchandise from detection by an electronic or magnetic theft alarm sensor.

11-6-1-13: THEFT DETECTION DEVICE REMOVER:

"Theft detection device Remover" means any tool or device specifically designed and intended to be used to remove any theft detection device from any merchandise.

11-6-2: OFFENSE OF RETAIL THEFT:

A person commits the offense of retail theft when he or she knowingly:

- A. Takes possession of, carries away, transfers or causes to be carried away or transferred, any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment, the full retail value of which does not exceed one hundred fifty dollars (\$150.00), with the intention of retaining such merchandise or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise; or

- B. Alters, transfers, or removes any label, price tag, marking, indicia of value or any other markings which aid in determining value affixed to any merchandise displayed, held, stored, or offered for sale, in a retail mercantile establishment, the full value of which does not exceed one hundred fifty dollars (\$150.00), and attempts to purchase such merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of the full retail value of such merchandise; or
- C. Transfers any merchandise displayed, held, stored or offered for sale, in a retail mercantile establishment from the container in or on which such merchandise is displayed to any other container with the intention of depriving the merchant of the full retail value of such merchandise; or
- D. Under-rings with the intention of depriving the merchant of the full retail value of the merchandise; or
- E. Removes a shopping cart from the premises of a retail mercantile establishment without the consent of the merchant given at the time of such removal with the intention of depriving the merchant permanently of the possession, use or benefit of such cart.
- F. Represents to a merchant that he or another is the lawful owner of property, knowing that such representation is false, and conveys or attempts to convey that property to a merchant who is the owner of the property in exchange for money, merchandise credit or other property of the merchant; or
- G. Uses or possesses any theft detection shielding device or theft detection device remover with the intention of using such device to deprive the merchant permanently of the possession, use or benefit of any merchandise displayed, held, stored or offered for sale in a retail mercantile establishment without paying the full retail value of such merchandise.

11-6-3: PRESUMPTIONS:

If any person:

- A. Conceals upon his or her person or among his or her belongings, unpurchased merchandise displayed, held, stored or offered for sale in a retail mercantile establishment; and
- B. Removes that merchandise beyond the last known station for receiving

payments for that merchandise in that retail mercantile establishment, such person shall be presumed to have possessed, carried away or transferred such merchandise with the intention of retaining it or with the intention of depriving the merchant permanently of the possession, use or benefit of such merchandise without paying the full retail value of such merchandise.