

ACT 275

S.B. NO. 461

A Bill for an Act Relating to Shoplifting.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
CIVIL LIABILITY FOR SHOPLIFTING**

“§ -1 Definitions. As used in this chapter, unless the context otherwise requires:

“Mercantile establishment” means any place where merchandise is displayed, held, or offered for sale at retail.

“Merchandise” means all things movable and capable of manual delivery.

“Owner” means any person who owns or operates a mercantile establishment or the agents or employees of that person.

“Shoplifting” means the specific type of theft offense defined in section 708-830(8).

§ -2 Damages and penalties. (a) Any person who takes possession of any merchandise displayed or offered for sale by any mercantile establishment without the consent of the owner and with the intention of converting such merchandise to the individual's own use without having paid the purchase price thereof, who alters the price indicia of such merchandise, or who takes any other action that constitutes the offense of shoplifting, shall be civilly liable to the owner of the mercantile establishment for either:

- (1) Actual damages and a civil penalty of \$75, if a written demand is made pursuant to subsection (e), for the actual damages and this civil penalty; or
- (2) Actual damages, a civil penalty of \$75, and an additional civil penalty of not less than \$50 nor more than \$500, to recover the costs and expenses of bringing a civil suit, as determined by the court.

(b) A conviction for theft under section 708-830 to 708-833 is not a condition precedent to the maintenance of a civil action under this section.

(c) A civil liability under this section is not limited by another law that limits liability of parents or minor children.

(d) An action for recovery of damages and the assessment of the civil penalties under this section may be brought in any court of competent jurisdiction, including the small claims division of a district court.

(e) The fact that an owner of a mercantile establishment may bring an action against an individual for damages as provided in this section shall not limit the right of the owner of a mercantile establishment to demand, in writing, prior to the commencement of any legal action, that a person who is liable for damages under this section remit said damages and the amount of civil penalty allowed in section -2.

(f) Judgments, but not claims, arising under this section may be assigned.”

SECTION 2. This Act shall take effect upon its approval.

(Approved June 7, 1985.)