

SECOND REGULAR SESSION

HOUSE BILL NO. 1888

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ZERR.

3286L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 570.010, RSMo, and to enact in lieu thereof two new sections relating to unlawful distribution, possession, or use of a theft detection shielding device and unlawful possession, use, or removal of a theft detection device, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 570.010, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 570.010 and 570.035, to read as follows:

570.010. As used in this chapter:

(1) "Adulterated" means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulations of this state lawfully filed, or if none, as set by commercial usage;

(2) "Appropriate" means to take, obtain, use, transfer, conceal or retain possession of;

(3) "Coercion" means a threat, however communicated:

(a) To commit any crime; or

(b) To inflict physical injury in the future on the person threatened or another; or

(c) To accuse any person of any crime; or

(d) To expose any person to hatred, contempt or ridicule; or

(e) To harm the credit or business repute of any person; or

(f) To take or withhold action as a public servant, or to cause a public servant to take or withhold action; or

(g) To inflict any other harm which would not benefit the actor. A threat of accusation, lawsuit or other invocation of official action is not coercion if the property sought to be obtained by virtue of such threat was honestly claimed as restitution or indemnification for harm done in

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 the circumstances to which the accusation, exposure, lawsuit or other official action relates, or
18 as compensation for property or lawful service. The defendant shall have the burden of injecting
19 the issue of justification as to any threat;

20 (4) "Credit device" means a writing, number or other device purporting to evidence an
21 undertaking to pay for property or services delivered or rendered to or upon the order of a
22 designated person or bearer;

23 (5) "Dealer" means a person in the business of buying and selling goods;

24 (6) "Debit device" means a card, code, number or other device, other than a check, draft
25 or similar paper instrument, by the use of which a person may initiate an electronic fund transfer,
26 including but not limited to devices that enable electronic transfers of benefits to public
27 assistance recipients;

28 (7) "Deceit" means purposely making a representation which is false and which the actor
29 does not believe to be true and upon which the victim relies, as to a matter of fact, law, value,
30 intention or other state of mind. The term "deceit" does not, however, include falsity as to
31 matters having no pecuniary significance, or puffing by statements unlikely to deceive ordinary
32 persons in the group addressed. Deception as to the actor's intention to perform a promise shall
33 not be inferred from the fact alone that he did not subsequently perform the promise;

34 (8) "Deprive" means:

35 (a) To withhold property from the owner permanently; or

36 (b) To restore property only upon payment of reward or other compensation; or

37 (c) To use or dispose of property in a manner that makes recovery of the property by the
38 owner unlikely;

39 (9) "Misabeled" means varying from the standard of truth or disclosure in labeling
40 prescribed by statute or lawfully promulgated administrative regulations of this state lawfully
41 filed, or if none, as set by commercial usage; or represented as being another person's product,
42 though otherwise accurately labeled as to quality and quantity;

43 (10) "New and unused property" means tangible personal property that has never been
44 used since its production or manufacture and is in its original unopened package or container if
45 such property was packaged;

46 (11) "Of another" property or services is that "of another" if any natural person,
47 corporation, partnership, association, governmental subdivision or instrumentality, other than
48 the actor, has a possessory or proprietary interest therein, except that property shall not be
49 deemed property of another who has only a security interest therein, even if legal title is in the
50 creditor pursuant to a conditional sales contract or other security arrangement;

51 (12) "Property" means anything of value, whether real or personal, tangible or intangible,
52 in possession or in action, and shall include but not be limited to the evidence of a debt actually
53 executed but not delivered or issued as a valid instrument;

54 (13) "Receiving" means acquiring possession, control or title or lending on the security
55 of the property;

56 (14) "Services" includes transportation, telephone, electricity, gas, water, or other public
57 service, accommodation in hotels, restaurants or elsewhere, admission to exhibitions and use of
58 vehicles;

59 (15) **"Theft detection device" means any tag or other device that is used to prevent
60 or detect theft and that is attached to merchandise held for resale by a merchant or to
61 property of a merchant;**

62 (16) **"Theft detection remover" means any tool or device specifically designed or
63 manufactured to be used to remove a theft detection device from merchandise held for
64 resale by a merchant or property of a merchant;**

65 (17) **"Theft detection shielding device" means any laminated or coated bag or
66 device designed to shield merchandise held for resale by a merchant or property of a
67 merchant from being detected by an electronic or magnetic theft alarm sensor;**

68 (18) "Writing" includes printing, any other method of recording information, money,
69 coins, negotiable instruments, tokens, stamps, seals, credit cards, badges, trademarks and any
70 other symbols of value, right, privilege or identification.

570.035. 1. A person commits unlawful:

2 (1) **Distribution of a theft detection shielding device when he or she knowingly
3 manufactures, sells, offers to sell or distributes any theft detection shielding device;**

4 (2) **Possession of a theft detection shielding device when he or she knowingly
5 possesses any theft detection shielding device with the intent to commit stealing or
6 shoplifting;**

7 (3) **Possession of a theft detection device remover when he or she knowingly
8 possesses any theft detection device remover with the intent to use such tool to remove any
9 theft detection device from any merchandise without the permission of the merchant or
10 person owning or holding such merchandise;**

11 (4) **Use of a theft detection shielding device or a theft detection device remover
12 when he or she uses or attempts to use either device while committing a violation of section
13 570.030;**

14 (5) **Removal of a theft detection device when he or she knowingly removes any theft
15 detection device from merchandise prior to purchase without the permission of the
16 merchant or person owning or holding such merchandise.**

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17 **2. Any person who violates the provisions of subsection 1 of this section is guilty of**
18 **a class D felony.**

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