

HOUSE BILL No. 5125

October 2, 2001, Introduced by Reps. Bishop, Raczkowski, Cassis, Meyer, Van Woerkom, Koetje, Kowall, Richner, Vander Veen, Tabor, Ruth Johnson, Woronchak, LaSata and Lemmons and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 360a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 360A. (1) A PERSON SHALL NOT ENGAGE IN THE FOLLOWING
2 CONDUCT:

3 (A) POSSESS A LAMINATED OR COATED BAG OR DEVICE THAT IS
4 INTENDED TO SHIELD MERCHANDISE FROM DETECTION BY AN ELECTRONIC OR
5 MAGNETIC THEFT DETECTOR WITH THE INTENT TO COMMIT OR ATTEMPT TO
6 COMMIT LARCENY.

7 (B) MANUFACTURE, SELL, OFFER FOR SALE, OR DISTRIBUTE, OR
8 ATTEMPT TO MANUFACTURE, SELL, OFFER FOR SALE, OR DISTRIBUTE, A
9 LAMINATED OR COATED BAG OR DEVICE THAT IS INTENDED TO SHIELD
10 MERCHANDISE FROM DETECTION BY AN ELECTRONIC OR MAGNETIC THEFT

1 DETECTOR KNOWING OR REASONABLY BELIEVING THAT THE BAG OR DEVICE
2 WILL BE USED TO COMMIT OR ATTEMPT TO COMMIT LARCENY.

3 (C) POSSESS A TOOL OR DEVICE DESIGNED TO ALLOW THE DEACTIVA-
4 TION OR REMOVAL OF A THEFT DETECTION DEVICE FROM ANY MERCHANDISE
5 WITH THE INTENT TO USE THE TOOL OR DEVICE TO DEACTIVATE A THEFT
6 DETECTION DEVICE ON, OR TO REMOVE A THEFT DETECTION DEVICE FROM,
7 ANY MERCHANDISE WITHOUT THE PERMISSION OF THE MERCHANT OR PERSON
8 OWNING OR LAWFULLY HOLDING THAT MERCHANDISE WITH THE INTENT TO
9 COMMIT OR ATTEMPT TO COMMIT LARCENY.

10 (D) MANUFACTURE, SELL, OFFER FOR SALE, OR DISTRIBUTE A TOOL
11 OR DEVICE DESIGNED TO ALLOW THE DEACTIVATION OR REMOVAL OF A
12 THEFT DETECTION DEVICE FROM ANY MERCHANDISE WITHOUT THE PERMIS-
13 SION OF THE MERCHANT OR PERSON OWNING OR LAWFULLY HOLDING THAT
14 MERCHANDISE KNOWING OR REASONABLY BELIEVING THAT THE TOOL OR
15 DEVICE WILL BE USED TO COMMIT OR ATTEMPT TO COMMIT LARCENY.

16 (E) DEACTIVATE A THEFT DETECTION DEVICE OR REMOVE A THEFT
17 DETECTION DEVICE FROM ANY MERCHANDISE IN A RETAIL ESTABLISHMENT
18 PRIOR TO PURCHASING THE MERCHANDISE WITH THE INTENT TO COMMIT OR
19 ATTEMPT TO COMMIT A LARCENY.

20 (2) A PERSON WHO VIOLATES SUBSECTION (1) IS GUILTY OF A
21 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A
22 FINE OF NOT MORE THAN \$500.00, OR BOTH.

23 (3) ACTIVATION OF AN ANTISHOPLIFTING OR INVENTORY CONTROL
24 DEVICE AS A RESULT OF A PERSON EXITING OR ATTEMPTING TO EXIT THE
25 RETAIL ESTABLISHMENT OR AN AREA OF THE RETAIL ESTABLISHMENT CON-
26 STITUTES REASONABLE CAUSE FOR THE OWNER OR OPERATOR OF THE RETAIL
27 ESTABLISHMENT, OR AN EMPLOYEE OR AGENT OF THE OWNER OR OPERATOR,

1 TO DETAIN THE PERSON IF A NOTICE IS POSTED ON THE RETAIL
2 ESTABLISHMENT PREMISES ADVISING PATRONS THAT THE RETAIL ESTAB-
3 LISHMENT UTILIZES ANTISHOPLIFTING OR INVENTORY CONTROL DEVICES.
4 THE DETENTION OF A PERSON UNDER THIS SUBSECTION SHALL ONLY BE
5 CONDUCTED IN A REASONABLE MANNER AND ONLY FOR A TIME SUFFICIENT
6 FOR AN INQUIRY INTO THE CIRCUMSTANCES SURROUNDING THE ACTIVATION
7 OF THE ANTISHOPLIFTING OR INVENTORY CONTROL DEVICE OR FOR THE
8 RECOVERY OF THE MERCHANDISE, OR BOTH.

9 (4) A LAW ENFORCEMENT OFFICER, SECURITY OFFICER, MERCHANT,
10 OR EMPLOYEE OR AGENT OF A MERCHANT WHO DETAINS A PERSON UNDER
11 SUBSECTION (3) IN COMPLIANCE WITH THE REQUIREMENTS OF SUBSECTION
12 (3) SHALL NOT BE LIABLE FOR THOSE ACTIONS UNDER EITHER THE CRIMI-
13 NAL LAW OR CIVIL LAW OF THIS STATE, INCLUDING, BUT NOT LIMITED
14 TO, FALSE ARREST, FALSE IMPRISONMENT, UNLAWFUL DETENTION, MALI-
15 CIOUS PERSECUTION, INTENTION INFLICTION OF EMOTIONAL DISTRESS, OR
16 DEFAMATION.