

SB

287



STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 17, 1980

SUBJECT: CSSB 287 (Judiciary) - Shoplifting liability  
TO: Senator Terry Stimson,  
FROM: Billy G. Berrier *BGB*  
Director  
Division of Legal Services

You have asked for an explanation of the civil liability computation under this bill. Sec. 09.65.110(a) provides liability for the shoplifter and sec. 09.65.110(b) provides liability of a person having legal custody of an unemancipated minor.

Under (a), there are three liability factors which are additive

1. Provides liability for actual damages. Actual damages are compensatory and are measured by the loss or injury suffered.
2. Provides a penalty equal to the retail value of the merchandise or \$1,000 whichever is less. This penalty applies whether or not the owner of the merchandise sustains an actual loss. For example, in a situation where the shoplifter is caught immediately, the stolen goods are recovered and returned to the owner unharmed, the actual loss to the owner could be minimal; but the shoplifter is still liable.
3. Provides an additional penalty of not less than \$100 or more than \$200. Again this is a penalty and actual loss is not a required element.

Under (b) the person having legal custody is not made liable for actual damages but is liable for

1. A penalty equal to the retail value of the merchandise or \$500 whichever is less; and

April 17, 1980

2. A penalty of not less than \$100 or more than \$200.

As in (a) neither require actual loss to the owner and are additive.

Some examples may clarify the point.

1. Assume that a shoplifter steals an electronic device valued at \$2,500 and the device is dropped and ruined. The shoplifter would be liable for \$2,500 under (a)(1) (the loss to owner) for \$1,000 under (a)(2) (since this is less than the value) and \$100 to \$200 under (a)(3) for a total liability of \$3,600 to \$3,700. A person having legal custody would be liable under the assumption for \$500 under (b)(1) and \$100 - \$200 under (b)(2) for a total liability of \$600 - \$700.

2. Under the same assumption as in (1) except assuming the device was returned unharmed, the actual damages are minimal, if any, since proof of actual loss from being deprived of use of the device for a period is usually impossible to show. The shoplifter would have minimal liability under (a)(1) and the same liability under (a)(2) and (a)(3) for a total of \$1,100 - \$1,200. The person having legal custody of a minor would have the same liability as in (1), that is \$600 - \$700.

3. Assume that a shoplifter steals an item valued at \$25 and it is returned unharmed. The shoplifter would be liable for no or minimum damages under (a)(1), \$25 under (a)(2) since this is the lesser and \$100 - \$200 under (a)(3) for a total of \$125 - \$225. The person having legal custody would have the same liability as the shoplifter in this example since the value of the merchandise taken is also under \$500.

These liabilities are in addition to the award of costs and attorneys fees which may be made to a prevailing party under Rule 82 of the Rules of Civil Procedure.

BGB:jdn



NORTHERN REGION OFFICE  
7101 Empire Way So., Seattle, Washington 98118

725-7200

*In the Northwest it's "MY-TE-FINE"*

February 18th, 1980

Terry Stimson  
Alaska State Senator  
Pouch V  
Juneau, Alaska 99811

Re: Senate Bill 287 (Civil Penalties for Shoplifting)

Senator Stimson,

I am writing to you in response to Senate Bill No. 287, regarding proposed civil penalties recoverable by a merchant from those who shoplift on their premises.

Because shoplifting is an ever increasing cost factor that is ultimately born by the vast majority of our honest customers the concept of civil penalties, I believe, is a valid one for the following reasons:

1. That small percentage of persons who shoplift help to bear the cost of their activity.
2. The civil penalties can be a catalyst for a positive shoplifting prevention campaign.
3. We believe those persons who have paid the civil penalties have a much lower recidivism rate than those who have not.

Having reviewed the proposed legislation, it is similar to that enacted into law in Washington State. Our experience in Washington State has been as follows:

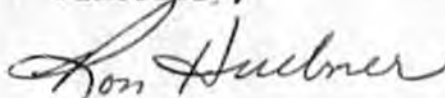
1. Civil Penalties have accounted for about 12% of the total cost of our store detectives expenses.
2. We believe that even in those instances where a person is "suit proof" there is a deterrent effect to their returning to our store to shoplift.
3. Those persons who have paid the civil penalties after being apprehended seems to be positive "I'll never do it again - IT'S TOO EXPENSIVE".

It is integral to an understanding of the shoplifting problem that the great majority of shoplifters are not "hardened criminals" but rather persons whose lives and values are pretty much average. It must also be understood that the greatest number and dollar amount of loss is sustained as a result of these "amateurs".

I might mention also that we have not dramatically reduced the number of shoplifting cases involving the criminal justice system, especially where large dollar amounts and/or perceived history of shoplifting is obvious. We believe the civil and criminal remedies are both appropriate.

We heartily endorse your efforts on this legislation, Senator, feeling that it is in the best interest of the total community.

Sincerely,



Ronald G. Huebner  
Security Manager  
Northern Region  
Fred Meyer

RGH:df

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 287  
 Title "An Act Relating to Civil Liability for Shoplifting; and Providing  
 Requested by Senator Stimpson Date 2/12/80

for an Effective Date"

II. FISCAL DETAIL

Agency Affected Department of Law  
 Program Category Affected General Government  
 BRU, Program, or Subprogram(s) Affected Legal Services

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section )

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This bill provides for civil action on the part of owners of merchandise to collect damages and penalties from shoplifters. Since the Department of Law is not involved in this process, there will not be a fiscal impact for legal services.

IV. DATE February 13, 1980 PREPARED BY Richard I. Pegues Admin. Officer

AGENCY Department of Law

Original: Legislative Finance PHONE 465-3695

cc. Budget and Management  
 Prime Sponsor (First Legislator Named)

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American Society  
for Industrial Security

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25th year



Please Reply to: Alaska Chapter  
P. O. Box 2339  
Anchorage, Alaska 99510

February 14, 1980

The Honorable Terry Stimson  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

Subject: Senate Bill No. 287, Civil Liability for Shoplifting

Dear Senator Stimson:

In October, 1979, Dic Gribbon, Loss Prevention Manager, Pay'n Save Corporation, informed the membership of the Alaska Chapter, American Society for Industrial Security, of the contents and purpose of this bill. The membership voted to support the legislation.

The American Society for Industrial Security is the nation's foremost organization for security professionals. The Alaska Chapter, although relatively new, includes among its membership a significant number of the security professionals in Alaska.

We are pleased to go on record in support of legislation which would help to reduce the tremendous losses due to shoplifting which are suffered by retail stores in Alaska.

Very truly yours,

J. P. Goldsmith  
Chapter Chairman  
Alaska Chapter

JPG:bjc  
cc: Dic Gribbon

# PAY'n SAVE

C O R P O R A T I O N

2002 WEST BENSON BLVD.  
ANCHORAGE, ALASKA 99503

May 9, 1980

The Honorable Charles Parr, Chairman House Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Parr:

Pay'n Save Corporation ardently supports SB #287, "An Act Relating to Civil Liability for Shoplifting," and urges passage.

Shoplifting cost consumers and retailers billions of dollars every year. The losses that retailers suffer, as well as the costs of security measures to protect our merchandise, ultimately is passed onto the consumer. We feel that when SB #287 passes, it will provide a definite deterrent to the major shoplifting problem which plagues ALASKA MERCHANTS STATEWIDE, and also help defray the costs that consumers must pay, by having those that cause the problem, pay for the problem.

An informal survey of the major retailers in the Anchorage area shows that approximately 5,000 people have been apprehended for shoplifting over the past two years. That is approximately 2½ percent of the population of the Anchorage bowl. National statistics show that for every shoplifter caught, ten are successfully shoplifting and getting away, and that 1 out of 10 customers that enter a retail store, shoplift. On 1/9/80, the Anchorage Times ran a "Ripley's Believe It or Not!", which stated, "Business crimes such as shoplifting and employee pilfering, by adding 15% to consumer prices, costs every man, woman and child in the country \$200.00 a year."

Laws similar to SB#287, have been passed in other states, Washington, Oregon, and California, to name a few. In the state of Washington where Pay'n Save Corporation has been utilizing the Civil Restitution Law for two years, we have found it not only to be an excellent deterrent, but we have offset the costs of our store detective programs by 25% the first year, and 47% last year. This is a significant amount of money that we did not have to pass along to the consumer.

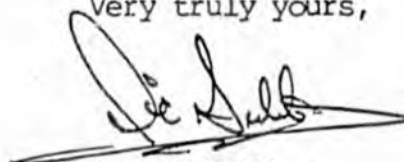
This bill has been endorsed by the Anchorage Chamber of Commerce, American Society for Industrial Security, the major retailers in the state, Pay'n Save Corporation (Pay'n Save and Lamonts), Fred Meyer, Carrs-Payless, Sears, Nordstroms, The Market Place, Safeway, Montgomery Wards, and Longs Drugs, as well as smaller merchants such as Brown Jug Liquors, Reeni's Shoes, Carls Jewelers, Nobby, and many more, too numerous to list. This bill is designed to help the smaller retailer who often can ill-afford to take a full-time person off the sales floor to apprehend a shoplifter, call the police and appear in court. The sales dollars lost by this person's absence does not warrant the apprehension to be

made. So the retailer takes the loss, and marks up other merchandise to cover the loss while the shoplifter goes free to steal elsewhere. With passage of CSSB#287, the merchant will have a method of recouping these losses.

Again, we heartily endorse SB#287 and urge it's passage.

We would like to thank you, Representative Parr and the other members of the House Judiciary Committee for their time and consideration in reviewing SB#287, "An Act Relating to Civil Restitution for Shoplifting."

Very truly yours,

A handwritten signature in black ink, appearing to read "Dic Gribbon", with a long horizontal line extending to the right from the end of the signature.

DIC GRIBBON  
Loss Prevention Manager  
Pay'n Save Corporation

DG/ts

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

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 Prime Sponsor (First Legislator Named)

*Richard I. Pegues*