

1 SB62  
2 196525-4  
3 By Senator Chambliss  
4 RFD: Judiciary  
5 First Read: 04-FEB-20  
6 PFD: 01/30/2020

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8 SYNOPSIS: This bill would establish the crime of theft  
9 by shoplifting and would prescribe criminal  
10 penalties based on the monetary value of the  
11 property taken.

12 Amendment 621 of the Constitution of Alabama  
13 of 1901, now appearing as Section 111.05 of the  
14 Official Recompilation of the Constitution of  
15 Alabama of 1901, as amended, prohibits a general  
16 law whose purpose or effect would be to require a  
17 new or increased expenditure of local funds from  
18 becoming effective with regard to a local  
19 governmental entity without enactment by a 2/3 vote  
20 unless: it comes within one of a number of  
21 specified exceptions; it is approved by the  
22 affected entity; or the Legislature appropriates  
23 funds, or provides a local source of revenue, to  
24 the entity for the purpose.

25 The purpose or effect of this bill would be  
26 to require a new or increased expenditure of local  
27 funds within the meaning of the amendment. However,

1 the bill does not require approval of a local  
2 governmental entity or enactment by a 2/3 vote to  
3 become effective because it comes within one of the  
4 specified exceptions contained in the amendment.

5  
6 A BILL  
7 TO BE ENTITLED  
8 AN ACT

9  
10 Relating to crimes and offenses; to establish the  
11 crime of theft by shoplifting; and in connection therewith  
12 would have as its purpose or effect the requirement of a new  
13 or increased expenditure of local funds within the meaning of  
14 Amendment 621 of the Constitution of Alabama of 1901, now  
15 appearing as Section 111.05 of the Official Recompilation of  
16 the Constitution of Alabama of 1901, as amended.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. As used in this act, the following terms  
19 shall have the following meanings:

20 (1) CONCEAL. To place merchandise in a manner that  
21 is not visible through ordinary observation.

22 (2) MERCHANDISE. An item of tangible personal  
23 property that is displayed, held, stored, or offered for sale  
24 within a retail establishment.

25 (3) MERCHANT. An owner or operator of a retail  
26 establishment or an agent, employee, lessee, officer, or  
27 director of the owner or operator.

1           (4) PREMISES OF A RETAIL ESTABLISHMENT. The retail  
2 establishment, common use areas in shopping centers, and  
3 parking areas designated by a merchant or on behalf of a  
4 merchant for the parking of motor vehicles for the convenience  
5 of the patrons of the retail establishment.

6           (5) VALUE. The actual retail price of merchandise  
7 prior to the commission of the crime of theft by shoplifting.

8           Section 2. (a) A person commits the crime of theft  
9 by shoplifting when the person, acting alone or in concert  
10 with another person, with the intent to appropriate  
11 merchandise of a retail establishment without paying for the  
12 merchandise or to deprive the merchant of the retail  
13 establishment of the merchandise of all or part of the value  
14 of the merchandise, knowingly does any of the following:

15           (1) Conceals upon his or her person or in another  
16 manner and takes possession of two or more items of  
17 merchandise of the retail establishment.

18           (2) Alters, transfers, or removes the label, price  
19 tag, marking, indicia of value, or any other markings that aid  
20 in determining value affixed to merchandise in a retail  
21 establishment, and purchases, or attempts to purchase, the  
22 merchandise at less than its value.

23           (3) Transfers merchandise in a retail establishment  
24 from one container to another with the intent to purchase the  
25 merchandise at less than its value.

1           (4) Causes the cash register or other sales  
2 recording device to reflect less than the value of the  
3 merchandise of a retail establishment.

4           (5) Fails to scan the barcode and pay for  
5 merchandise at a self-checkout register.

6           (6) Alters, bypasses, disables, shields, or removes  
7 any security or alarm device attached to or housing  
8 merchandise prior to the purchase of the merchandise.

9           (b) (1) A violation of subsection (a) shall be deemed  
10 prima facie evidence that the person intended to deprive the  
11 merchant of all or part of the full value of the merchandise  
12 without paying the full value of the merchandise.

13           (2) The unaltered price tag or other marking on the  
14 merchandise, or duly identified photographs of the  
15 merchandise, shall be prima facie evidence of the  
16 merchandise's actual retail value and ownership.

17           Section 3. (a) Theft by shoplifting of merchandise  
18 which exceeds two thousand five hundred dollars (\$2,500) in  
19 value constitutes theft by shoplifting in the first degree.

20           (b) Theft by shoplifting in the first degree is a  
21 Class B felony.

22           Section 4. (a) Theft by shoplifting of merchandise  
23 which exceeds one thousand five hundred dollars (\$1,500) in  
24 value but does not exceed two thousand five hundred dollars  
25 (\$2,500) in value constitutes theft by shoplifting in the  
26 second degree.

1           (b) Theft by shoplifting of a firearm, rifle, or  
2 shotgun which does not exceed two thousand five hundred  
3 dollars (\$2,500) in value constitutes theft by shoplifting in  
4 the second degree.

5           (c) Theft by shoplifting in the second degree is a  
6 Class C felony.

7           Section 5. (a) Theft by shoplifting of merchandise  
8 which exceeds five hundred dollars (\$500) in value but does  
9 not exceed one thousand five hundred dollars (\$1,500) in value  
10 constitutes theft by shoplifting in the third degree.

11           (b) Theft by shoplifting in the third degree is a  
12 Class D felony.

13           Section 6. (a) Theft by shoplifting of merchandise  
14 which does not exceed five hundred dollars (\$500) in value  
15 constitutes theft by shoplifting in the fourth degree.

16           (b) Theft by shoplifting in the fourth degree is a  
17 Class A misdemeanor.

18           Section 7. Although this bill would have as its  
19 purpose or effect the requirement of a new or increased  
20 expenditure of local funds, the bill is excluded from further  
21 requirements and application under Amendment 621, now  
22 appearing as Section 111.05 of the Official Recompilation of  
23 the Constitution of Alabama of 1901, as amended, because the  
24 bill defines a new crime or amends the definition of an  
25 existing crime.

1                   Section 8. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.