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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO CRIMINAL OFFENSES - THEFT, EMBEZZLEMENT, FALSE PRETENSES,
AND MISAPPROPRIATION

Introduced By: Senators Bell, Quezada, Nesselbush, Crowley, and Murray

Date Introduced: February 27, 2020

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 11-41-5 and 11-41-20 of the General Laws in Chapter 11-41
2 entitled "Theft, Embezzlement, False Pretenses, and Misappropriation" are hereby amended to
3 read as follows:

4 **11-41-5. Penalties for larceny.**

5 (a) Any person convicted of any offense under §§ 11-41-1 -- 11-41-6, except § 11-41-3,
6 shall be punished as follows, according to the value of the property or money stolen, received,
7 embezzled, fraudulently appropriated, converted, or obtained, received, taken, or secreted by false
8 pretenses or otherwise with intent to cheat, defraud, embezzle, or fraudulently convert:

9 (1) If the value exceeds one thousand five hundred dollars (\$1,500), and is less than five
10 thousand dollars (\$5,000), by imprisonment for not more than three (3) years or by a fine of not
11 more than one thousand five hundred dollars (\$1,500), or both;

12 (2) If the value exceeds five thousand dollars (\$5,000), but is less than ten thousand
13 dollars (\$10,000), by imprisonment for not more than six (6) years or by a fine of not more than
14 three thousand dollars (\$3,000), or both; and

15 (3) If the value exceeds ten thousand dollars (\$10,000), or if the property is a firearm as
16 defined in § 11-47-5.1, regardless of its value, the person shall be punished by imprisonment for
17 not more than ten (10) years or by a fine of not more than five thousand dollars (\$5,000), or both.

18 ~~If the value does not exceed one thousand five hundred dollars (\$1,500)~~ If the value exceeds two

1 hundred fifty dollars (\$250), and is less than one thousand five hundred dollars (\$1,500), the
2 person shall be punished by imprisonment for not more than one year, or by a fine of not more
3 than five hundred dollars (\$500), or both. If the value does not exceed two hundred fifty dollars
4 (\$250), and is a first offense, the person shall be sentenced to complete up to twenty (20) hours of
5 community service, as ordered by the court, or be punished by a fine of not more than fifty dollars
6 (\$50.00), or double the value of the stolen item(s), minus the fair market value of any item(s)
7 returned, or both. If the value exceeds two hundred fifty dollars (\$250), and is less than one
8 thousand dollars (\$1,000), and a first offense, or exceeds twenty-five dollars (\$25.00), and is less
9 than two hundred fifty dollars (\$250), and a second offense, or does not exceed twenty-five
10 dollars (\$25.00), and is a fourth offense, the person shall be punished by imprisonment for not
11 more than three (3) months, or by a fine of twice the amount of the value of the item(s) stolen,
12 minus the fair market value of any item(s) returned. Any person convicted of an offense under §
13 11-41-2 who shall be found to have knowingly obtained the property from a person under
14 eighteen (18) years of age, notwithstanding the value of the property or money, shall be punished
15 by imprisonment for not more than ten (10) years or by a fine of not more than five thousand
16 dollars (\$5,000), or both.

17 (b) Any person convicted of an offense in violation of §§ 11-41-1 -- 11-41-7, except §
18 11-41-3, that involves a victim who is a person sixty-five (65) years of age or older at the time of
19 the offense and which involves property or money stolen, received, embezzled, fraudulently
20 appropriated, converted, or obtained, received, taken, or secreted by false pretenses or otherwise
21 with intent to cheat, defraud, embezzle, or fraudulently convert, with a value in excess of five
22 hundred dollars (\$500), shall be punished by imprisonment for not less than two (2) years but not
23 more than fifteen (15) years or by a fine of not more than five thousand dollars (\$5,000), or both.
24 If the value of the property or money does not exceed five hundred dollars (\$500), the person
25 shall be punished by imprisonment for not less than one year but not more than five (5) years or
26 by a fine of not more than three thousand dollars (\$3,000), or both.

27 (c) All monetary amounts with regard to value of merchandise shall be increased
28 annually to reflect the rate of inflation as adjusted by the percentage of increase in the consumer
29 price index for all urban consumers (CPI-U) as published by the United States Department of
30 Labor Statistics as of September 30 of the prior calendar year.

31 **11-41-20. Shoplifting.**

32 (a) For the purpose of this section:

33 (1) "Conceal" means to place merchandise in such a manner that it is not visible through
34 ordinary observation.

1 (2) "Full retail value" means the merchant's stated price of the merchandise.

2 (3) "Merchandise" means any items of tangible personal property offered for sale within a
3 retail mercantile establishment.

4 (4) "Merchant" means an owner or operator of any retail mercantile establishment or any
5 agent, employee, lessee, officer, or director of the owner or operator.

6 (5) "Premises of a retail mercantile establishment" includes the retail mercantile
7 establishment, and common use areas in shopping centers, and all parking areas set aside by a
8 merchant or on behalf of a merchant for the parking of vehicles for the convenience of the patrons
9 of the retail mercantile establishment.

10 (6) "Retail mercantile establishment" means any place where merchandise is displayed,
11 held, stored or offered for sale to the public.

12 (7) "Shopping cart" means those push carts of the type or types which are commonly
13 provided by grocery stores, drug stores, or other retail mercantile establishments for the use of the
14 public in transporting commodities on or from the premises of the retail mercantile establishment.

15 (b) Whoever shall engage in the following shall be guilty of the crime of shoplifting:

16 (1) Take possession of, carry away, transfer or cause to be carried away or transferred
17 any merchandise displayed, held, stored, or offered for sale by a retail mercantile establishment
18 with the intention of depriving the merchant of all or any part of the full retail value of the
19 merchandise;

20 (2) Alter, transfer, or remove a label, price tag, marking, indicia of value or any other
21 markings which aid in determining value affixed to any merchandise displayed, held, stored or
22 offered for sale in a retail mercantile establishment and attempt to purchase or purchase the
23 merchandise personally or in consort with another at less than the full retail value with the
24 intention of depriving the merchant of all or any part of the full retail value of such merchandise;

25 (3) Transfer any merchandise displayed, held, stored or offered for sale in a retail
26 mercantile establishment from one container to another in an attempt to purchase or purchase the
27 merchandise personally or in consort with another at less than the full retail value with the
28 intention of depriving the merchant of all or any part of the full retail value of the merchandise; or

29 (4) Remove a shopping cart from the premises of a retail mercantile establishment
30 without the consent of the merchant given at the time of the removal with the intention of
31 depriving the merchant of the possession, use, or benefit of the cart.

32 (c) The fact that a person conceals upon his person, among his or her belongings, or upon
33 the person or among the belongings of another merchandise displayed, held, stored or offered for
34 sale in a retail mercantile establishment, for which he or she has not paid the full retail value, and

1 the merchandise has been taken beyond the area within the retail mercantile establishment where
2 payment for it is to be made, shall be prima facie evidence that the person has possessed, carried
3 away, or transferred the merchandise with the intention of depriving the merchant of all or part of
4 the full retail value of the merchandise without paying the full retail value of the merchandise.

5 (d) Any person convicted of the crime of shoplifting ~~shall be guilty of a misdemeanor and~~
6 ~~shall be punished by a fine of not less than fifty dollars (\$50.00) or two times the full retail value~~
7 ~~of the merchandise, whichever is greater, but not more than five hundred dollars (\$500), or by~~
8 ~~imprisonment for not more than one year, or both; provided, any person convicted of the crime of~~
9 ~~shoplifting merchandise with a retail value of over one hundred dollars (\$100) who has~~
10 ~~previously been convicted of shoplifting shall be guilty of a felony and shall be punished by a~~
11 ~~fine of not more than five thousand dollars (\$5,000), or by imprisonment of not more than five (5)~~
12 ~~years, or both, if the value does not exceed two hundred fifty dollars (\$250), and is a first~~
13 ~~offense, or if the value does not exceed twenty-five dollars (\$25.00), and is a second or third~~
14 ~~offense, the person shall be sentenced up to twenty (20) hours of community service, as ordered~~
15 ~~by the court, or punished by a fine of up to fifty dollars (\$50.00), or double the value of the stolen~~
16 ~~merchandise, minus the fair market value of any merchandise returned. If the value exceeds two~~
17 ~~hundred fifty dollars (\$250), and is less than one thousand dollars (\$1,000), and is a first offense,~~
18 ~~or if the value exceeds twenty-five dollars (\$25.00), and is less than two hundred fifty dollars~~
19 ~~(\$250), and is a second or third offense, or if the value does not exceed twenty-five dollars~~
20 ~~(\$25.00), and is a fourth offense, the person shall be punished by imprisonment for not more than~~
21 ~~three (3) months, or by a fine of twice the value of the merchandise, minus the fair market value~~
22 ~~of any merchandise returned. If the value exceeds one thousand dollars (\$1,000), and is a first~~
23 ~~offense, or if the value exceeds two hundred fifty dollars (\$250), and is less than one thousand~~
24 ~~dollars (\$1,000), and is a second offense, or if the value does exceeds twenty-five dollars~~
25 ~~(\$25.00), and is less than two hundred fifty dollars (\$250), and is a fourth offense, the person~~
26 ~~shall be punished by imprisonment for not more than six (6) months, or by a fine of twice the~~
27 ~~value of the stolen merchandise, minus the fair market value of any merchandise returned.~~

28 (e) No person shall be charged with the offense of shoplifting if they are charged with the
29 offense of larceny for the same act.

30 (f) All monetary amounts with regard to value of merchandise shall be increased annually
31 to reflect the rate of inflation as adjusted by the percentage of increase in the consumer price
32 index for all urban consumers (CPI-U) as published by the United States department of labor
33 statistics as of September 30 of the prior calendar year.

34 SECTION 2. Section 11-41-24 of the General Laws in Chapter 11-41 entitled "Theft,

1 Embezzlement, False Pretenses, and Misappropriation" is hereby repealed.

2 **11-41-24. Habitual offender.**

3 ~~Any person who shall be convicted three (3) times for the crime of shoplifting as defined~~
4 ~~in § 11-41-20 or larceny as defined in § 11-41-1 or receiving stolen goods as defined in § 11-41-~~
5 ~~2, or who shall have been convicted three (3) times of any combination of the crimes described in~~
6 ~~this section, shall also be charged as an habitual offender and, upon conviction, shall be fined not~~
7 ~~less than two hundred dollars (\$200) nor more than five hundred dollars (\$500) and shall be~~
8 ~~imprisoned not less than six (6) months nor more than one year.~~

9 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINAL OFFENSES - THEFT, EMBEZZLEMENT, FALSE PRETENSES,
AND MISAPPROPRIATION

1 This act would provide for a reduced penalty for the offense of larceny, and further
2 provides for a tiered penalty system for the offense of shoplifting. This act further provides that
3 the offense of shoplifting, under two hundred fifty dollars (\$250), and first offense, or under
4 twenty-five dollars (\$25.00), and second or third offense, is no longer classified as a
5 misdemeanor. This act repeals the habitual offender mandatory minimum statute.

6 This act would take effect upon passage.

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