

JUDICIAL CODE (42 PA.C.S.) - AMEND DAMAGES IN ACTIONS ON RETAIL

Act of Nov. 21, 1990, P.L. 563, No. 141

Cl. 42

Session of 1990

No. 1990-141

AN ACT

HB 1882

Amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for damages in actions on retail theft.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 42 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 8308. Damages in actions on retail theft.

(a) General rule.--In a civil action based on retail theft, as defined in 18 Pa.C.S. § 3929(a) (relating to retail theft), a court of competent jurisdiction shall utilize the following remedies:

(1) Order the defendant to restore the merchandise to the plaintiff in its original condition, if possible.

(2) Award damages as follows:

(i) If it is not possible to restore the merchandise in its original condition under paragraph (1), award the value of the merchandise as damages.

(ii) Award actual damages arising from the incident. Damages under this subparagraph do not include the loss of time or wages incurred by the plaintiff in connection with the apprehension and prosecution of the defendant.

(iii) Award reasonable attorney fees and reasonable court costs.

(3) Award a civil penalty to the plaintiff in the amount of the value of the merchandise plus \$150.

(b) Minors.--If the defendant is a minor, the act of July 27, 1967 (P.L.186, No.58), entitled "An act imposing liability upon parents for personal injury, or theft, destruction, or loss of property caused by the willful, tortious acts of children under eighteen years of age, setting forth limitations, and providing procedure for recovery," applies.

(c) Criminal disposition.--Criminal prosecution under 18 Pa.C.S. § 3929 is not a prerequisite to the applicability of this section.

(d) Limitations.--

(1) The plaintiff shall send a notice to the defendant's last known address giving the defendant 20 days to respond before a civil action may be commenced.

(2) No civil action under this section may be maintained if the defendant has paid the plaintiff a penalty equal to the retail value of the merchandise, not to exceed \$500, plus

the sum of \$150.

(e) Release.--If the person to whom a written demand is made complies with such demand within 20 days after the receipt of the demand, that person shall be given a written release from further civil liability with respect to the specific act of retail theft.

Section 2. This act shall take effect in 60 days.

APPROVED--The 21st day of November, A. D. 1990.

ROBERT P. CASEY