

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1882

 Session of 1989

INTRODUCED BY KOSINSKI, TRELLO, CORRIGAN, MELIO, LEVDANSKY,
BATTISTO, PISTELLA, PESCI, BELARDI, MRKONIC, JAROLIN,
LAUGHLIN, WOGAN AND KENNEY, SEPTEMBER 26, 1989

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, MAY 30, 1990

AN ACT

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

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

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

8 § ~~8307~~ 8308. Damages in actions on retail theft. <—

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

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

15 (2) Award damages as follows:

16 (i) If it is not possible to restore the merchandise
17 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 ~~two times~~ the value of the merchandise ~~or \$50, whichever~~
~~is higher.~~ PLUS \$150.

(B) WRITTEN DEMAND.--

(1) PRIOR TO THE COMMENCEMENT OF AN ACTION SEEKING
DAMAGES AS PROVIDED IN THIS SECTION, THE PLAINTIFF MAY MAKE
WRITTEN DEMAND THAT THE DEFENDANT PAY TO THE PLAINTIFF A SUM
EQUAL TO THE RETAIL VALUE OF THE MERCHANDISE, NOT TO EXCEED
\$500 PLUS THE SUM OF \$150.

(2) THE PLAINTIFF SHALL SEND SUCH WRITTEN DEMAND TO THE
DEFENDANT'S LAST KNOWN ADDRESS.

(3) THE PLAINTIFF'S WRITTEN DEMAND SHALL BE IN THE FORM
AS ESTABLISHED BY THE CIVIL PROCEDURAL RULES COMMITTEE AND
SHALL INCLUDE A DESCRIPTION OF THE PROVISIONS OF THIS SECTION
AND SHALL ADVISE THE DEFENDANT THAT COMPLIANCE WITH WRITTEN
DEMAND WITHIN 20 DAYS WILL RESULT IN RELEASE OF CIVIL
LIABILITY.

(4) NO CIVIL ACTION UNDER THIS SECTION MAY BE MAINTAINED
IF THE DEFENDANT HAS PAID TO THE PLAINTIFF A SUM EQUAL TO THE
RETAIL VALUE OF THE MERCHANDISE, NOT TO EXCEED \$500 PLUS THE
SUM OF \$150.

(5) THE PLAINTIFF SHALL GIVE A DEFENDANT COMPLYING WITH
WRITTEN DEMAND A DULY EXECUTED CIVIL RELEASE.

1 ~~(b)~~ (C) Minors.--If the defendant is a minor, the act of <—
2 July 27, 1967 (P.L.186, No.58), entitled "An act imposing
3 liability upon parents for personal injury, or theft,
4 destruction, or loss of property caused by the wilful, tortious
5 acts of children under eighteen years of age, setting forth
6 limitations, and providing procedure for recovery," applies.
7 ~~(e)~~ (D) Criminal disposition.--Criminal prosecution under 18 <—
8 Pa.C.S. § 3929 is not a prerequisite to the applicability of
9 this section.
10 (E) LIMITATIONS.--NO CIVIL ACTION UNDER THIS SECTION MAY BE <—
11 MAINTAINED IF:
12 (1) THE DEFENDANT HAS PAID THE PLAINTIFF A PENALTY EQUAL
13 TO THE RETAIL VALUE OF THE MERCHANDISE, NOT TO EXCEED \$500
14 PLUS THE SUM OF \$150;
15 (2) THE PLAINTIFF SHALL SEND A NOTICE TO DEFENDANT'S
16 LAST KNOWN ADDRESS; AND
17 (3) THE PLAINTIFF SHALL GIVE THE DEFENDANT 20 DAYS TO
18 RESPOND TO NOTICE BEFORE THE ACTION IS COMMENCED.
19 (F) RELEASE.--IF THE PERSON TO WHOM A WRITTEN DEMAND IS MADE
20 COMPLIES WITH SUCH DEMAND WITHIN 20 DAYS AFTER THE RECEIPT OF
21 THE DEMAND, THAT PERSON SHALL BE GIVEN A WRITTEN RELEASE FROM
22 FURTHER CIVIL LIABILITY WITH RESPECT TO THE SPECIFIC ACT OF
23 RETAIL THEFT.
24 Section 2. This act shall take effect in 60 days.