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Van Sant, Viola, Wagner; Sens.
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HOUSE OF REPRESENTATIVES

140th GENERAL ASSEMBLY

HOUSE BILL NO.

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO OFFENSES FOR SHOPLIFTING AND POSSESSION OF TOOLS FOR SHOPLIFTING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 840, Chapter 5, Subchapter III, Title 11 of the Delaware Code, by striking
2 the second paragraph of subsection (d) of § 840, and substituting in lieu thereof the following:

3 “Shoplifting is a Class G felony when the goods, wares, or merchandise shoplifted are of
4 the value of \$1,000 or more, or when the goods, wares, or merchandise shoplifted are from three
5 separate mercantile establishments, regardless of the value of the goods. When the goods, wares,
6 or merchandise shoplifted are of the value of less than \$1,000 and are from less than three
7 separate mercantile establishments, then it is a Class A misdemeanor.”

8 Section 2. Amend Subpart (D), Subchapter III, Chapter 5, Title 11 of the Delaware Code by
9 adding thereto a new section designated as § 860, which new section shall read as follows:

10 “§ 860. Possession of Shoplifters Tools or Instruments Facilitating Theft; Class F
11 Felony.

12 (a) A person is guilty of possession of shoplifters tools or instruments facilitating theft
13 when the person possesses any tool, instrument, or other thing adapted, designed, or
14 commonly used for committing or facilitating:

15 (1) Offenses involving shoplifting;

- 16 (2) Offenses involving the overriding, disabling, or evading of a security device
17 without authorization.
- 18 (3) Offenses involving shoplifting under circumstances evincing an attempt to use or
19 knowledge that some other person intends to use the same in the commission of
20 an offense of such character.
- 21 (b) "Security device" includes any lock, whether mechanical or electronic, or any
22 warning device designed to alert a person or the general public of a possible attempt
23 to shoplift any goods, wares, or merchandise which are displayed for sale. "Security
24 device" specifically includes and is not limited to any electronic or other device
25 which is attached or affixed to any goods, wares, or merchandise on display for sale
26 in a mercantile establishment.
- 27 (c) A person possesses shoplifting tools or instruments facilitating theft "under
28 circumstances evincing an attempt to use or knowledge that some other person
29 intends to use such" when the person possesses the tools or instruments at a time and
30 a place proximate to the commission or attempt to commit a shoplifting offense or
31 otherwise under circumstances not manifestly appropriate for what lawful uses the
32 tools or instruments may have.
- 33 (d) Possession or shoplifters tools or instruments facilitating theft is a Class F felony."

SYNOPSIS

There has been an increase in shoplifting offenses committed in the State of Delaware. An increasing number of the suspects involved in shoplifting offenses are very sophisticated and are "professionals" from outside the State of Delaware. These suspects are cognizant of the existing dollar value in the statute required to commit a felony shoplifting offense and have attempted to evade felony charges by shoplifting from several establishments and taking less than the \$1,000 minimum. The suspects also have very sophisticated tools and devices for shoplifting including metal or foil-lined shopping bags which override and evade security devices in mercantile establishments which sound alarm when any piece of merchandise is taken through the security system with an electronic hidden tag.

This bill changes the existing law so that if a shoplifting suspect is apprehended with goods stolen from three separate mercantile establishments, then they may be charged with felony shoplifting, regardless of the value of the goods. This bill also creates a new section and a new felony for possession of shoplifters tools.