

No. 2002-33

AN ACT

HB 2129

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing for the offense of unlawful possession of retail or library theft instruments.

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

Section 1. Title 18 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

§ 3929.2. Unlawful possession of retail or library theft instruments.

(a) Offense.—A person commits a misdemeanor of the first degree if he knowingly possesses, manufactures, sells, offers for sale or distributes in any way a theft detection shielding device or a theft detection deactivation device.

(b) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Conceal.” To conceal merchandise or library or museum material so that, although there may be some notice of its presence, it is not visible through ordinary observation.

“Full retail value.” The merchant’s stated or advertised price of the merchandise.

“Library.” Any public library, any library, archives or manuscript repository of an educational, historical or eleemosynary institution, organization or society, any museum and any repository of public records.

“Library or museum material.” Any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microfilm, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, display object, exhibit, work of art, artifact or other documentary, written or printed materials regardless of physical form or characteristics, belonging to, on loan to or otherwise in the custody of a library.

“Merchandise.” Any goods, chattels, foodstuffs or wares of any type and description regardless of the value thereof.

“Merchant.” An owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee or independent contractor of such owner or operator.

“Store or other retail mercantile establishment.” A place where merchandise is displayed, held, stored or sold or offered to the public for sale.

“Theft detection deactivation device.” Any tool, device, equipment or object designed to destroy, remove, render inoperative or deactivate any inventory control tag, security strip or any other mechanism designed or employed to prevent an offense under section 3929 (relating to retail theft) or 3929.1 (relating to library theft) which is possessed, manufactured, sold or offered for sale with the intention that it be used to:

(1) deprive merchants of the possession, use or benefit of merchandise displayed, held, stored or offered for sale or lease without paying the full retail value thereof; or

(2) convert library or museum material to one’s own use.

“Theft detection shielding device.” Any laminated, lined or coated bag, purse, container, case, coat or similar device which is intended to be used to take possession of, carry away, transfer, cause to be carried away or transferred or conceal:

(1) any merchandise displayed, held, stored or offered for sale or lease by any store or other retail mercantile establishment with the intent to deprive merchants of the possession, use or benefit of such merchandise without paying the full retail value thereof; or

(2) any library or museum material on his person or among his belongings with the intent to convert such material to his own use.

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

APPROVED—The 17th day of April, A.D. 2002.

MARK S. SCHWEIKER