

CHAPTER 162

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 01-1221

BY REPRESENTATIVE(S) White, Dean, Jahn, Plant, Rippy, Romanoff, Saliman, Stengel, and Weddig;
also SENATOR(S) Takis and Epps.

AN ACT

CONCERNING THEFT DETECTION DEVICES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 18-4-407, Colorado Revised Statutes, is amended to read:

18-4-407. Questioning of person suspected of theft without liability. If any person TRIGGERS AN ALARM OR A THEFT DETECTION DEVICE AS DEFINED IN SECTION 18-4-417 (2) OR conceals upon his person or otherwise carries away any unpurchased goods, wares, or merchandise held or owned by any store or mercantile establishment, the merchant or any employee thereof or any peace officer, acting in good faith and upon probable cause based upon reasonable grounds therefor, may detain and question such person, in a reasonable manner for the purpose of ascertaining whether the person is guilty of theft. Such questioning of a person by a merchant, merchant's employee, or peace or police officer does not render the merchant, merchant's employee, or peace officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention.

SECTION 2. Part 4 of article 4 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

18-4-417. Unlawful acts - theft detection devices. (1) (a) IT IS UNLAWFUL FOR ANY PERSON TO KNOWINGLY MANUFACTURE, DISTRIBUTE, OR SELL A THEFT DETECTION SHIELDING DEVICE OR A THEFT DETECTION DEACTIVATING DEVICE WITH THE KNOWLEDGE THAT SOME PERSON INTENDS TO USE THE DEVICE IN THE COMMISSION OF AN OFFENSE INVOLVING THEFT.

(b) IT IS UNLAWFUL FOR ANY PERSON TO POSSESS A THEFT DETECTION SHIELDING

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

DEVICE OR A THEFT DETECTION DEACTIVATING DEVICE WITH THE INTENT TO USE THE DEVICE POSSESSED, OR WITH THE KNOWLEDGE THAT SOME PERSON INTENDS TO USE THE DEVICE POSSESSED, IN THE COMMISSION OF AN OFFENSE INVOLVING THEFT.

(c) IT IS UNLAWFUL FOR ANY PERSON TO KNOWINGLY DEACTIVATE OR REMOVE A THEFT DETECTION DEVICE OR ANY COMPONENT THEREOF IN ANY STORE OR MERCANTILE ESTABLISHMENT WITHOUT AUTHORIZATION PRIOR TO PURCHASE.

(2) AS USED IN THIS SECTION:

(a) "THEFT DETECTION DEACTIVATING DEVICE" MEANS ANY TOOL, INSTRUMENT, MECHANISM, OR OTHER ARTICLE ADAPTED, DESIGNED, ENGINEERED, USED, OR OPERATED TO INACTIVATE, INCAPACITATE, OR REMOVE A THEFT DETECTION DEVICE WITHOUT AUTHORIZATION.

(b) "THEFT DETECTION DEVICE" MEANS AN ELECTRONIC OR MAGNETIC MECHANISM, MACHINE, APPARATUS, TAG, OR ARTICLE DESIGNED AND OPERATED FOR THE PURPOSE OF DETECTING THE UNAUTHORIZED REMOVAL OF MERCHANDISE FROM A STORE OR MERCANTILE ESTABLISHMENT.

(c) "THEFT DETECTION SHIELDING DEVICE" MEANS ANY TOOL, INSTRUMENT, MECHANISM, OR ARTICLE ADAPTED, DESIGNED, ENGINEERED, USED, OR OPERATED TO AVOID DETECTION BY A THEFT DETECTION DEVICE DURING THE COMMISSION OF AN OFFENSE INVOLVING THEFT. "THEFT DETECTION SHIELDING DEVICE" INCLUDES, BUT IS NOT LIMITED TO, ANY LAMINATED OR COATED SACK OR CONTAINER THAT IS CAPABLE OF AVOIDING DETECTION BY A THEFT DETECTION DEVICE.

(3) ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION COMMITS A CLASS 1 MISDEMEANOR.

SECTION 3. Effective date - applicability. This act shall take effect July 1, 2001, and shall apply to all offenses committed on or after said date.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 18, 2001