



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB2496

Introduced 2/18/2015, by Rep. Will Guzzardi

SYNOPSIS AS INTRODUCED:

720 ILCS 5/16-27

Amends the Criminal Code of 2012. Changes the additional amount of damages that may be recovered by the merchant from an amount not less than \$100 nor more than \$1,000 to an amount equal to the lesser of \$500 or 3 times the full retail value of the merchandise. Provides that a merchant may recover civil damages for retail theft by bringing suit in a circuit court or by executing a settlement agreement. Specifies form of settlement agreement. Provides that the settlement agreement shall include a statement that nothing in the agreement shall constitute an admission of guilt for purposes of criminal law and that if the agreement is signed and payment is made in full within 60 days, no police report or criminal complaint will be filed by the merchant relative to the incident. Provides that nothing in the agreement can or will bar the State from instituting the criminal prosecutions as it deems necessary. Effective immediately.

LRB099 06775 RLC 27982 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Section 16-27 as follows:

6 (720 ILCS 5/16-27)

7 Sec. 16-27. Civil liability.

8 (a) A person who commits the offense of retail theft as
9 defined in subdivision (a)(1), (a)(2), (a)(3), or (a)(8) of
10 Section 16-25 shall be civilly liable to the merchant of the
11 merchandise in an amount consisting of:

12 (i) actual damages equal to the full retail value of
13 the merchandise; plus

14 (ii) an amount equal to the lesser of \$500 or 3 times
15 the full retail value of the merchandise ~~not less than \$100~~
16 ~~nor more than \$1,000~~; plus

17 (iii) attorney's fees and court costs.

18 (b) If a minor commits the offense of retail theft, the
19 parents or guardian of the minor shall be civilly liable as
20 provided in this Section; however, a guardian appointed
21 pursuant to the Juvenile Court Act of 1987 shall not be liable
22 under this Section. Total recovery under this Section shall not
23 exceed the maximum recovery permitted under Section 5 of the

1 Parental Responsibility Law. For the purposes of this Section,
2 "minor" means a person who is less than 19 years of age, is
3 unemancipated, and resides with his or her parent or parents or
4 legal guardian.

5 (c) A conviction or a plea of guilty to the offense of
6 retail theft is not a prerequisite to the bringing of a civil
7 suit under this Section.

8 (d) Judgments arising under this Section may be assigned.

9 (e) A merchant may recover civil damages for retail theft
10 by bringing suit in a circuit court or by executing a
11 settlement agreement in the form set out in subsection (f) of
12 this Section.

13 (f) A merchant and a person accused of retail theft by the
14 merchant may agree to execute a civil settlement agreement for
15 civil damages in an amount equal to the lesser of \$500 or 3
16 times the full retail value of the merchandise, plus the return
17 of the merchandise or the replacement value of the merchandise
18 within 60 days of the date the agreement is signed. The form of
19 the settlement agreement shall be as follows:

20 Settlement of Claim for Taking Merchandise Without Payment

21 The undersigned, (Party #1), having failed
22 to pay for certain merchandise, more specifically
23 described as follows, hereby agrees to pay,
24 within 60 days of the date this agreement is signed, civil

1 damages of (an amount equal to the lesser of
 2 \$500 or 3 times the full retail value of the merchandise),
 3 plus the merchandise or the replacement value of the
 4 merchandise. The parties agree that this payment shall
 5 constitute full and complete payment of damages to the
 6 following merchant The following merchant
 7 agrees to waive any and all claims it may
 8 have for civil damages.

9 Nothing in this agreement shall constitute an admission of
 10 guilt for purposes of criminal law. If this agreement is
 11 signed and payment is made in full within 60 days, no
 12 police report or criminal complaint will be filed by the
 13 merchant relative to this incident. However, nothing in
 14 this agreement can or will bar the State of Illinois from
 15 instituting the criminal prosecutions as it deems
 16 necessary.

17
 18 Party #1

19
 20 Party #2 for the following merchant:

21

22 (Source: P.A. 97-597, eff. 1-1-12.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.