

BILL ANALYSIS

Senate Research Center
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S.B. 966
By: Staples
Criminal Justice
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DIGEST AND PURPOSE

Retail theft committed in mercantile establishments is increasing. Many retailers are combating these increases in retail theft offenses by installing complex and expensive electronic article surveillance systems. Thefts at these retail establishments are being committed by “professional” thieves who have homemade tools and devices for retail theft including metal or foil-lined shopping bags which override and evade these electronic article surveillance systems. As proposed, S.B. 966 creates a new section in the Texas Penal Code prohibiting the possession, sale, manufacturing, and distribution of a device intended to shield merchandise from detection by an electronic or magnetic theft detector. It also prohibits the possession, sale, manufacturing, and distribution of any tool or device without the permission of the merchant or person owning the merchandise.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 31, Penal Code, by adding Section 31.15, as follows:

Sec. 31.15. POSSESSION, MANUFACTURE, OR DISTRIBUTION OF CERTAIN INSTRUMENTS USED TO COMMIT RETAIL THEFT. Defines “retail theft detector” and “shielding or deactivation instrument.” Provides that a person commits a Class A misdemeanor if the person possesses or knowingly manufactures certain items.

SECTION 2. Amends Section 124.001, Civil Practice and Remedies Code, to provide that, for the purposes of this section, if notice is provided as described by this subsection, the activation of a retail theft detector used by retail establishment to prevent or detect shoplifting is grounds for a person to reasonably believe another has stolen or is attempting to steal property. Requires a notice to be posted on the premises of the retail establishment in a manner that is reasonably likely to come to the attention of the public and state that the establishment uses retail theft detectors to prevent or detect shoplifting. Provides that an individual or retail establishment is not liable for damages arising from conduct authorized by this section.

SECTION 3. Amends Article 18.16, Code of Criminal Procedure, to provide that any person has, rather than all persons have, a right to prevent the consequences of theft by seizing any personal property that has been stolen and bringing it, with the person suspected of committing the theft, rather than the supposed offender, if that person can be taken, before a magistrate for examination, or delivering the property and the person suspected of committing the theft to a peace officer. Requires there to be reasonable ground to believe, rather than suppose, the property is stolen, and requires the seizure to be openly made and the proceedings had without delay, in order to justify a seizure under this article.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2001.