

CHAPTER 220

RETAIL THEFT AND SHOPLIFTING

[History: Ord 220, 2009-10]

220.01 No person shall do any of the following without the merchant's consent and with intent to deprive the merchant permanently of possession or the full purchase price of the merchandise or property:

- (1) Intentionally alters indicia of price or value of merchandise held for resale by a merchant or property of a merchant.
- (2) Intentionally takes and carries away merchandise held for resale by a merchant or property of a merchant.
- (3) Intentionally transfers merchandise held for resale by a merchant or property of a merchant.
- (4) Intentionally conceals merchandise held for resale by a merchant or property of a merchant.
- (5) Intentionally retains possession of merchandise held for resale by a merchant or property of a merchant.
- (6) While anywhere in the merchant's store, intentionally removes a theft detection device from merchandise held for resale by a merchant or property of a merchant.
- (7) Uses, or possesses with intent to use, a theft detection shielding device to shield merchandise held for resale by a merchant or property of merchant from being detected by an electronic or magnetic theft alarm sensor.
- (8) Uses, or possesses with intent to use, a theft detection device remover to remove a theft detection device from merchandise held for resale by a merchant or property of a merchant.
- (9) Intentionally aids or abets a violation of paragraphs (1) through (8) above.

220.02 A merchant, a merchant's adult employee or a merchant's security agent who has reasonable cause for believing that a person has violated this section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to his or her parent or guardian in the case of a minor. The detained person must be promptly informed of the purpose for the detention and be permitted to make phone calls, but he or she shall not be interrogated or searched against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. The merchant, merchant's adult employee or merchant's security agent may release the detained person before the arrival of a peace officer or parent or guardian. Any merchant, merchant's adult employee or merchant's security agent who acts in good faith in any act authorized under this section is immune from civil or criminal liability for those acts.

220.03 In any action or proceeding for violation of this section, duly identified and authenticated photographs of merchandise which was the subject of the violation may be used as evidence in lieu of producing the merchandise.

220.04 A merchant or merchant's adult employee is privileged to defend property as prescribed in sec. 939.49 Wis. Stats.

220.05 Any person who shall violate any of the provisions of section 220.01 shall, upon conviction thereof, forfeit to the city of Richland Center not less than \$50.00 nor more than \$400.00 as adjudged by the Court, plus all applicable costs, fees, assessments and surcharges as taxed and assessed by the Court, and in default of payment of said forfeiture and costs, fees, assessments and surcharges may, upon order of the Circuit Court, be imprisoned in the Richland County jail until such forfeiture, costs and assessment are paid, but not to exceed 90 days, and/or may be subject to any other sanctions imposed by the Court for such failure to pay.

220.06 Definitions. In this Chapter:

(1) "Merchant" includes any "merchant" as defined in sec. 402.104 (3) Wis. Stats. or any innkeeper, motelkeeper or hotelkeeper.

(2) "Theft detection device" means any tag or other device that is used to prevent or detect theft and that is attached to merchandise held for resale by a merchant or to property of a merchant.

(3) "Theft detection device remover" means any tool or device used, designed for use or primarily intended for use in removing a theft detection device from merchandise held for resale by a merchant or property of a merchant.

(4) "Theft detection shielding device" means any laminated or coated bag or device designed to shield merchandise held for resale by a merchant or property of a merchant from being detected by an electronic or magnetic theft alarm sensor.

(5) "Value of merchandise" means:

(a) For property of the merchant, the value of the property; or

(b) For merchandise held for resale, the merchant's stated price of the merchandise or, in the event of altering, transferring or removing a price marking or causing a cash register or other sales device to reflect less than the merchant's stated price, the difference between the merchant's stated price of the merchandise and the altered price.

220.07 In actions concerning violations of this chapter, a judge may order a violator to make restitution under sec. 800.093 Wis. Stats.

Enacted the 15th day of September, 2009