

(H.B. 1933)
(Conference)

(No. 249)

(Approved August 15, 1999)

AN ACT

To add Article 165-C to Act No. 115 of July 22, 1974, as amended, known as the “Penal Code of the Commonwealth of Puerto Rico”, in order to typify the offense of petty theft or shoplifting in commercial establishments in Puerto Rico, and impose penalties.

STATEMENT OF MOTIVES

Petty theft or shoplifting in commercial establishments in Puerto Rico has reached alarming proportions. It has been estimated that commerce has losses of over three hundred and thirty (330) million dollars a year through shoplifting in commercial establishments. This increases the operating costs of commercial establishments considerably, and is a burden that the consumer has to assume by paying higher prices to cover said losses.

At present Articles 165 and 166 of the 1974 Penal Code on simple and aggravated theft, apply to this misconduct. However, shoplifting includes some characteristics that are different from any other type of misappropriation, that justify that this conduct be typified in a different manner and with greater precision, so that there can be no doubts on the investigation and indictment of the violators of the law.

Petty theft or shoplifting in commercial establishments can be of many types: such as altering, changing, removing the sales ticket, or any other tag that determines the price, by transferring the merchandise from a package,

wrapping, box, etc., to another on which the price shown is lower, which causes the cash register or any other instrument that registers the price to reflect a lower price than that marked by the merchant, or by removing the merchandise. This specific type of conduct is not clearly defined in Articles 165 and 166 of the Penal Code, since they refer to misappropriation, as defined in Article 7 of the Penal Code, where none of the types of conduct mentioned above are included, and which constitute shoplifting.

The proposed legislation has the purpose of defining the offense of shoplifting and establishing the criteria under which the merchants can act to protect themselves of this delinquent conduct.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Article 165-C is hereby added to Act No. 115 of July 22, 1974, as amended, to read as follows:

“Article 165-C.- Petty Theft or Shoplifting in Commercial Establishments.

Any person, who with the intention of misappropriating merchandise from a commercial establishment for him/herself or someone else without paying the price stipulated by the merchant, shall be guilty of a misdemeanor and punished with a fine of one hundred (100) dollars, or double the selling price of the stolen goods, whichever is greater, and with the penalty of restitution:

- (1) hides the merchandise on his/her person, purse, bag, pack, or other similar parcel or object;
- (2) alters or changes the price attached to the merchandise by means of a label, code bar, or any other mark that will allow the sales price to be determined;
- (3) moves the merchandise from one package to another;

- (4) removes the merchandise from a commercial establishment; or
- (5) causes the cash register or any mechanism that registers the sale, to reflect a lower price than what is marked.

The Court, at its discretion, may impose the penalty of rendering community services in lieu of the established fine.

Provided, that the person may be indicted under Article 166 of this Act, when the sales price of the stolen article exceeds the amount provided in said Article.

Section 2.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 249 (H.B. 1933) (Conference) of the 5th Session of the 13th Legislature of Puerto Rico:

AN ACT to add Article 165-C to Act No. 115 of July 22, 1974, as amended, known as the “Penal Code of the Commonwealth of Puerto Rico”, in order to typify the offense of petty theft or shoplifting in commercial establishments in Puerto Rico, and impose penalties,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 18th of October of 2002.

Elba Rosa Rodríguez-Fuentes
Director