

SENATE BILL NO. 2269

Introduced by

Senators Dever, Espeland

Representatives Delmore, Dosch, Wrangham

- 1 A BILL for an Act to create and enact two new sections to chapter 12.1-23 North Dakota
2 Century Code, relating to the unlawful manufacture, distribution, and use of theft detection
3 shielding devices or deactivators; and to provide a penalty.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** Two new sections to chapter 12.1-23 of the North Dakota Century Code
6 are created and enacted as follows:

7 **Distribution and use of theft detection shielding devices.**

- 8 1. A person is guilty of unlawful distribution of a theft detection shielding device if the
9 person knowingly manufactures, sells, offers for sale, or distributes any laminated
10 or coated bag or device peculiar to shielding and intended to shield merchandise
11 from detection by an electronic or magnetic theft alarm sensor.
- 12 2. A person is guilty of unlawful possession of a theft detection shielding device if the
13 person knowingly possesses any laminated or coated bag or device peculiar to and
14 designed for shielding and intended to shield merchandise from detection by an
15 electronic or magnetic theft alarm sensor, with the intent to commit theft.
- 16 3. A person is guilty of unlawful possession of a theft detection device deactivator or
17 remover if the person knowingly possesses any tool or device designed to allow
18 the deactivation or removal of any theft detection device from any merchandise
19 without the permission of the merchant or person owning or holding the
20 merchandise.
- 21 4. A person is guilty of unlawful deactivation or removal of a theft detection device if
22 the person intentionally deactivates or removes the device from a product before
23 purchase.

1 5. A person is guilty of unlawful distribution of a theft detection device deactivator or
2 remover if the person knowingly manufactures, sells, offers for sale, or distributes
3 any tool or device designed to allow the deactivation or removal of a theft detection
4 device from merchandise without the permission of the merchant or person owning
5 or holding the merchandise.

6 6. An offense under subsections 1 and 5 is a class C felony. An offense under
7 subsection 2, 3, and 4 is a class A misdemeanor.

8 **Detention of persons suspected of unlawful use or removal of theft detection**
9 **devices - Reasonable cause.**

10 1. The activation of an antishoplifting or inventory control device as a result of a
11 person exiting the establishment or a protected area within the establishment
12 constitutes reasonable cause for the detention of the person exiting by the owner
13 or operator of the establishment or by an agent or employee of the owner or
14 operator, provided sufficient notice has been posted to advise the patrons that the
15 device is being utilized. Each detention must be made in a reasonable manner
16 and only for a reasonable period of time sufficient for any inquiry into the
17 circumstances surrounding the activation of the device or for the recovery of
18 goods.

19 2. If the taking into custody and detention of the person by a law enforcement officer,
20 security officer, merchant, or merchant's employee is done in compliance with the
21 requirements of this section, the law enforcement officer, security officer, merchant,
22 or merchant's employee may not be held criminally or civilly liable, including any
23 liability for false arrest, false imprisonment, unlawful detention, malicious
24 prosecution, intentional infliction of emotional distress, or defamation.