

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

SENATE BILL NO. 2269
(Senators Dever, Espegard)
(Representatives Delmore, Dosch, Wrangham)

AN ACT to create and enact two new sections to chapter 12.1-23 of the North Dakota Century Code, relating to the unlawful manufacture, distribution, and use of theft detection shielding devices or deactivators; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Distribution and use of theft detection shielding devices.

1. A person is guilty of unlawful distribution of a theft detection shielding device if the person knowingly manufactures, sells, offers for sale, or distributes any laminated or coated bag or device peculiar to shielding and intended to shield merchandise from detection by an electronic or magnetic theft alarm sensor.
2. A person is guilty of unlawful possession of a theft detection shielding device if the person knowingly possesses any laminated or coated bag or device peculiar to and designed for shielding and intended to shield merchandise from detection by an electronic or magnetic theft alarm sensor, with the intent to commit theft.
3. A person is guilty of unlawful possession of a theft detection device deactivator or remover if the person knowingly possesses any tool or device designed to allow the deactivation or removal of any theft detection device from any merchandise without the permission of the merchant or person owning or holding the merchandise.
4. A person is guilty of unlawful deactivation or removal of a theft detection device if the person intentionally deactivates or removes the device from a product before purchase.
5. A person is guilty of unlawful distribution of a theft detection device deactivator or remover if the person knowingly manufactures, sells, offers for sale, or distributes any tool or device designed to allow the deactivation or removal of a theft detection device from merchandise without the permission of the merchant or person owning or holding the merchandise.
6. An offense under subsections 1 and 5 is a class C felony. An offense under subsections 2, 3, and 4 is a class A misdemeanor.

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

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

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2269.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 93 Nays 0 Absent 1

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,
at _____ o'clock _____ M.

Secretary of State