

2025 SENATE JUDICIARY

SB 2257

2025 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee Peace Garden Room, State Capitol

SB 2257
1/28/2025

Relating to grading of theft offenses of values not exceeding five hundred dollars; and to provide a penalty.

11:31 a.m. Chair Larson opened the hearing.

Members present:

Chair Larson, Vice Chairman Paulson, Senators: Castaneda, Cory, Luick, Myrdal, Braunberger.

Discussion Topics:

- Shoplifting penalty enhancements
- Municipal convictions

11:31 a.m. Senator Myrdal introduced the bill.

11:32 a.m. Stephanie Dassinger Engebrets, Deputy Director & Attorney of the ND League of Cities, testified in favor and submitted testimony #32058.

11:36 a.m. Mike Rude, ND Retail Association, testified in favor.

11:37 a.m. Chair Larson closed the hearing.

11:37 a.m. Senator Luick moved a do pass.

11:37 a.m. Senator Castaneda seconded the motion.

Senators	Vote
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Ryan Braunberger	Y
Senator Jose L. Castaneda	Y
Senator Claire Cory	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion Passed 7-0-0.

11:37 a.m. Senator Luick will carry the bill.

11:37 a.m. Chair Larson closed the hearing.

Kendra McCann, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2257 ([25.1219.01000](#))

Judiciary Committee (Sen. Larson, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2257 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.



January 28, 2025

Senate Judiciary Committee

SB 2257

Senator Diane Larson, Chair

For the record, I am Stephanie Dassinger Engebretson, appearing on behalf of the North Dakota League of Cities (NDLC). I am the deputy director and attorney for the NDLC. The NDLC supports SB 2257, which is a technical fix to the enhancement of penalties for shoplifting offenses that the North Dakota Legislature passed in 2021.

In 2021, the North Dakota Legislature passed SB 2166 to address concern about increased shoplifting in retail establishments. Under that bill, the first offense of shoplifting is a class B misdemeanor but:

- A second, third, or fourth offense of shoplifting occurring within three years is a class A misdemeanor.
- A fifth or subsequent violation of shoplifting occurring within three years is a class C felony.

Please note that the NDLC did not take a position on SB 2166 during the 2021 Legislative Session; however, it has come to the NDLC's attention that some district courts have been interpreting the language in SB 2166 to mean that municipal court shoplifting convictions do not count to enhance the penalties of subsequent shoplifting charges.

By way of example, in a 2023 Ward County District Court case, a defendant was charged for a class C felony of shoplifting based on it being the defendant's 4th shoplifting charge in three years. In that case, two of the defendants' shoplifting convictions were in district court and one of the defendant's shoplifting charges was in municipal court. In that case, the Ward County District Court found that the municipal court conviction did not count as the third conviction for purposes of charging the defendant with class C felony shoplifting.

The legal reasoning being applied for not counting a municipal conviction is that the language in SB 2166 did not include the words "or equivalent ordinance." Here's a snippet from the District Court's opinion:

[¶8] To reiterate, the theft enhancement statute under which Quitt was charged

states:

A second or third offense under paragraph 1 of subdivision a occurring within three years is a class A misdemeanor. A fourth or subsequent violation under paragraph 1 of subdivision a occurring within four years is a class C felony.

N.D.C.C. § 12.1-23-05(5)(c). Quitt is correct that, on its face, the statute expressly

references itself when stating the qualifying prior offenses for enhancement.

[¶9] The Legislature's approach to theft enhancement statute(s) are significantly differ

from its statutory approach to DUI enhancement. See N.D.C.C. § 39-08-01(3), (4).

An individual violating this section **or equivalent ordinance** is guilty of a class B misdemeanor for the first or second offense in a seven-year period, of a class A misdemeanor for a third offense in a seven-year period, and of a class C felony for any fourth or subsequent offense within a fifteen-year period. The minimum

SB 2257 adds the language "or an equivalent ordinance" to subsection 5 of section 12.1-23-05 of the North Dakota Century Code to ensure that it is clear under the law that municipal court shoplifting convictions count for enhancing the shoplifting penalty for subsequent shoplifting charges within three years.

The NDLC respectfully requests a Do Pass recommendation on SB 2257 to fix the technical concern with the shoplifting statute and to make sure the intent of the legislature is carried out with respect to shoplifting violations.

2025 HOUSE JUDICIARY

SB 2257

2025 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

SB 2257
3/11/2025

A BILL for an Act to amend and reenact subsection 5 of section 12.1-23-05 of the North Dakota Century Code, relating to grading of theft offenses of values not exceeding five hundred dollars; and to provide a penalty.

10:13 a.m. Chairman Klemin opened the hearing.

Members Present: Chairman Klemin, Vice-Chairman Karls, Vice-Chairman Vetter, Representatives Christianson, Hoverson, Johnston, McLeod, S. Olson, Satrom, Tveit, VanWinkle, Wolff, Schneider

Members Absent: Representative Henderson

Discussion Topics:

- North Dakota shoplifting offenses
- Detering repeat shoplifting offenders

10:13 a.m. Senator Janne Myrdal, North Dakota Senator for District 19, introduced the bill.

10:15 a.m. Bill Wocken, North Dakota League of Cities, testified in favor and provided testimony #40499.

10:18 a.m. Mike Rud, President of the North Dakota Retail Association, testified in favor and provided testimony #40502.

10:25 a.m. Stephanie Engebretson, Deputy Director and Attorney at North Dakota League of Cities, testified in favor and provided testimony #40197.

10:26 a.m. Representative S. Olson moved a Do Pass.

10:26 a.m. Representative VanWinkle seconded the motion.

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Steve Vetter	N
Representative Nels Christianson	Y
Representative Donna Henderson	A
Representative Jeff Hoverson	N
Representative Daniel Johnston	N
Representative Carrie McLeod	Y
Representative SuAnn Olson	Y

Representative Bernie Satrom	N
Representative Mary Schneider	Y
Representative Bill Tveit	Y
Representative Lori VanWinkle	Y
Representative Christina Wolff	Y

10:29 a.m. Motion passed 9-4-1.

10:29 a.m. Representative S. Olson will carry the bill.

10:29 a.m. Chairman Klemin closed the hearing.

Wyatt Armstrong, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2257 ([25.1219.01000](#))

Judiciary Committee (Rep. Klemin, Chairman) recommends **DO PASS** (9 YEAS, 4 NAYS, 1 ABSENT OR EXCUSED AND NOT VOTING). SB 2257 was placed on the Fourteenth order on the calendar.



March 11, 2025

House Judiciary Committee

SB 2257

Representative Lawrence R. Klemin, Chair

For the record, I am Stephanie Engebretson, appearing on behalf of the North Dakota League of Cities (NDLC). The NDLC supports SB 2257. Bill Wocken will be delivering the testimony on behalf of the NDLC. I will be available remotely for any questions if needed.



March 11, 2025

House Judiciary Committee

SB 2257

Representative Lawrence R. Klemin, Chair

For the record, I am Bill Wocken, appearing on behalf of the North Dakota League of Cities (NDLC). The NDLC supports SB 2257, which is a technical fix to the enhancement of penalties for shoplifting offenses that the North Dakota Legislature passed in 2021.

In 2021, the North Dakota Legislature passed SB 2166 to address concern about increased shoplifting in retail establishments. Under that bill, the first offense of shoplifting is a class B misdemeanor but:

- A second or third of shoplifting occurring within three years is a class A misdemeanor.
- A fourth or subsequent violation of shoplifting occurring within three years is a class C felony.

Please note that the NDLC did not take a position on SB 2166 during the 2021 Legislative Session; however, it has come to the NDLC's attention that some district courts have been interpreting the language in SB 2166 to mean that municipal court shoplifting convictions do not count to enhance the penalties of subsequent shoplifting charges.

By way of example, in a 2023 Ward County District Court case, a defendant was charged for a class C felony of shoplifting based on it being the defendant's 4th shoplifting charge in three years. In that case, two of the defendant's shoplifting convictions were in district court and one of the defendant's shoplifting charges was in municipal court. In that case, the Ward County District Court found that the municipal court conviction did not count as the third conviction for purposes of charging the defendant with class C felony shoplifting.

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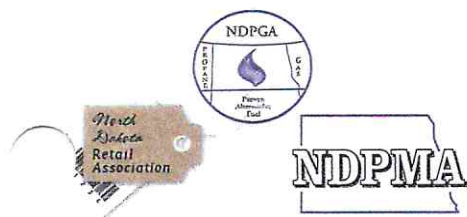
N.D.C.C. § 12.1-23-05(5)(c). Quitt is correct that, on its face, the statute expressly references itself when stating the qualifying prior offenses for enhancement.

[¶9] The Legislature's approach to theft enhancement statute(s) are significantly different from its statutory approach to DUI enhancement. See N.D.C.C. § 39-08-01(3), (4).

An individual violating this section or equivalent ordinance is guilty of a class B misdemeanor for the first or second offense in a seven-year period, of a class A misdemeanor for a third offense in a seven-year period, and of a class C felony for any fourth or subsequent offense within a fifteen-year period. The minimum

SB 2257 adds the language "or an equivalent ordinance" to subsection 5 of section 12.1-23-05 of the North Dakota Century Code to ensure that it is clear under the law that municipal court shoplifting convictions count for enhancing the shoplifting penalty for subsequent shoplifting charges within three years.

The NDLC respectfully requests a Do Pass recommendation on SB 2257 to fix the technical concern with the shoplifting statute and to make sure the intent of the legislature is carried out with respect to shoplifting violations.



North Dakota Retail Association
 ND Petroleum Marketers Association
 North Dakota Propane Gas Association

LEGISLATIVE BULLETIN

Testimony SB 2257

March 11, 2025-House Judiciary Committee

Chairman Klemin and Members of the House Judiciary Committee:

For the record, my name is Mike Rud. I serve as President of the North Dakota Retail Association. NDRA's membership stands in strong support of SB 2257 and urges a DO PASS recommendation.

SB 2257 continues to clamp down on repeat retail theft offenders by closing any potential cracks in NDCC. **The threat of the Class C felony is what gives this portion of the NDCC its teeth.**

No one has the right to steal your retail property over and over without facing serious consequences for those actions. Over the years, the frustration of ND retailers has reached a boiling point while watching the same criminals come back into their stores time after time, simply because the dollar amount of the theft didn't exceed \$500.

In 2021, working in conjunction with former ND Attorney General Wayne Stenehjem and a large group of concerned legislators, we successfully passed SB 2166. This bill was designed to put some serious teeth into retail theft. Specifically, the language was aimed at cracking down on repeat offenders.

This is a serious issue. The punishment must fit the crime when it comes to repeat retail thefts. **The threat of the Class C felony is the key deterrent.** SB 2257 helps tighten those handcuffs.

Again, NDRA urges a DO PASS recommendation on SB 2257.