

January 17, 1961.
Judiciary 2.

House File 52

By KLUEVER, WEICHMAN, DARRINGTON,
GRASSLEY, KNOWLES, FUELLING, RAPSON,
LANGE, HAGIE, FALVEY, EICHENLAUB,
FISHER, SERSLAND, RILEY.

Passed House, Date 1-31-61 Passed Senate, Date 2-7-61
Vote: Ayes 89 Nays 13 Vote: Ayes 33 Nays 16
Approved 2-9-61

A BILL FOR

An Act relating to larceny, creating and defining the offense
of shoplifting, providing penalties for such offense.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. Chapter seven hundred nine (709), Code 1958,
2 is hereby amended by adding thereto the following:
3 "Whoever shall willfully take possession of any goods, wares,
4 or merchandise offered for sale by any store or other mercan-
5 tile establishment, with the intention of converting the same to
6 his own use without paying the purchase price thereof, shall
7 be guilty of shoplifting and, when the value of the property so
8 taken into possession exceeds the sum of twenty dollars, he
9 shall be punished by imprisonment in the penitentiary not more
10 than five years, or in the county jail not more than one year, or
11 by a fine of not more than one thousand dollars, or by both such
12 fine and imprisonment; when the value does not exceed twenty
13 dollars, by fine not exceeding one hundred dollars, or imprison-
14 ment in the county jail not exceeding thirty days."

1 Sec. 2. The fact that any person has concealed unpurchased
2 goods or merchandise of any store or other mercantile establish-
3 ment, either on the premises or outside the premises of such
4 store, shall be material evidence of concealment of such article
5 with the intention of converting the same to his own use without

6 paying the purchase price thereof within the meaning of Section
7 one (1) of this Act, and the finding of such unpurchased goods
8 or merchandise concealed, upon the person or among the belong-
9 ings of such person, shall be material evidence of willful con-
10 cealment and, if such person conceals, or causes to be concealed,
11 such unpurchased goods or merchandise, upon the person or among
12 the belongings of another, the finding of the same shall also be
13 material evidence of willful concealment on the part of the person
14 concealing such goods.

1 Sec. 3. Persons so concealing such goods may be detained
2 and searched by a peace officer, merchant, or a merchant's em-
3 ployee, provided that the detention is for a reasonable length of
4 time and that the search is conducted in a reasonable manner by
5 a person of the same sex.

1 Sec. 4. No search of the person shall be conducted by any
2 person other than someone acting under the direction of a peace
3 officer except where permission of the one to be searched has
4 been first obtained.

1 Sec. 5. The detention or search under this Act by a peace officer,
2 merchant, or merchant's employee shall not render such peace officer,
3 merchant, or merchant's employee liable, in a criminal or civil action,
4 for false arrest or false imprisonment provided the peace officer,
5 or merchant's employee had reasonable grounds to believe the person
6 detained or searched committed or was attempting to commit the crime
7 of shoplifting as defined in this Act.

EXPLANATION OF HOUSE FILE 52

This is a "shoplifting bill" supported by the retail merchants of Iowa. In the 1933 session of the General Assembly, a similar shoplifting bill was passed by the House by a vote of 72 to 29; and approved by the Senate by a vote of 37 to 10.

It is estimated that shoplifters cost the retailers of Iowa more than fifty million dollars a year. Thirty-nine states have similar legislation against shoplifters.

Under the existing law in this state, neither a peace officer nor a merchant may arrest for a misdemeanor even though committed in the store in his presence. Any person who arrests a shoplifter without a warrant does so at his peril. Professional shoplifters

often pave the way for a lawsuit for false arrest by handing stolen goods to a confederate. This has become a problem of serious proportions in Iowa. Many stores permit obvious shoplifting rather than risk litigation for false arrest.

The very existence of this law will discourage shoplifting. This bill is not intended as a license to retailers to arrest and search innocent persons. Merchants and police officers are protected only when they detain suspected shoplifters for a reasonable length of time and make arrest when they have reasonable cause to believe larceny has been committed.

HOUSE FILE 52

- 1 Amend House File 52 as follows:
- 2 1. Amend Section four (4), line four (4) by striking *- Just 1-31-61*
- 3 the period following the word "obtained" and adding
- 4 the words "in writing." *(Amendment Revised)*
- 5 2. By adding the following sentence to the end of
- 6 Section four (4): "Upon request for permission to
- 7 conduct a search, the person proposing to make the
- 8 search shall inform the person he proposes to search *- Just 1-31-61*
- 9 that he has the right to refuse anyone except a peace
- 10 officer."

Filed
January 30, 1961.

STAGEMAN of Pottawattamie.

HOUSE FILE 52

- 1 Amend House File 52, section 2 of the Stageman amendment
- 2 by adding the following sentence at the end thereof:
- 3 "Any person proposing to make such a search who fails so to
- 4 inform the person he intends to search, of his right, shall render
- 5 himself liable to a misdemeanor punishable by a fine of not more
- 6 than one hundred dollars (\$100.00).

Filed from the floor and lost
January 31, 1961.

ELY of Linn.

HOUSE FILE 52

- 1 Amend House File 52, section 3, by inserting after the word
- 2 "sex" in line five (5) the following: "and according to section
- 3 four (4)."

Filed and adopted
January 31, 1961.

GOODE of Davis.

HOUSE FILE 52

- 1 Amend House File 52 as follows:
- 2 1. Amend section 4, line 4, by striking
- 3 the period following the word "obtained" and adding the words
- 4 "in writing."
- 5 2. Amend section 4 by adding the following
- 6 thereto: "If permission is refused, the fact of refusal
- 7 shall not be admissible in evidence in the trial of said
- 8 person charged hereunder.

Filed
February 1, 1961.

By TURNER

lost 2-6-61

HOUSE FILE 52

- 1 Amend House File 52 by striking section 5.

Filed
February 2, 1961.

By HILL and GILMOUR.

lost 2-9

HOUSE FILE 52

- 1 Amend House File 52 as follows:
- 2 Amend section 5, line 5, by striking the words
- 3 "reasonable grounds" and inserting in lieu thereof the
- 4 words "probable cause".

Filed and lost
February 7, 1961.

By POTTER.