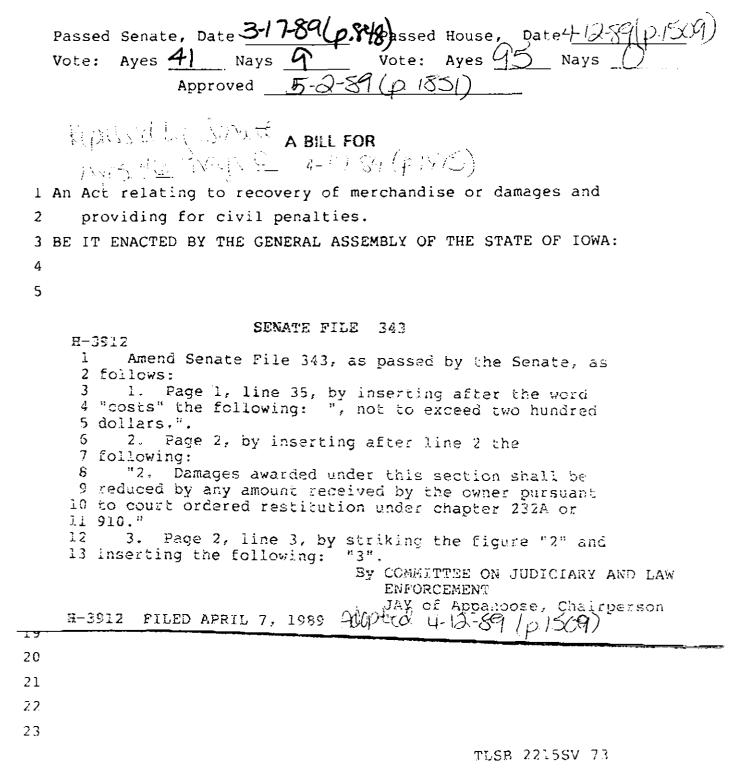
- (SIBA Jindai ((11)) Amarti & DO PASS/ 3 - 39/2, 4-6-89, (8.1406) FILED MAR (1): 1989

> SENATE FILE <u>343</u> BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 217)



S.F. 343H.F.

1 Section L. NEW SECTION. 645.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise 3 requires:

1. "Merchandise" includes any object, ware, good,
5 commodity, or other similar item displayed or offered for
6 sale.

7 2. "Mercantile establishment" includes any place where 8 merchandise is displayed, held, or offered for sale, either 9 retail or wholesale.

10 3. "Owner" means an owner of a mercantile establishment 11 and includes an owner's employee acting on behalf of the 12 owner.

13 Sec. 2. <u>NEW SECTION</u>. 645.2 ACTIONS FOR MERCHANDISE OR 14 DAMAGES.

An action for recovery of merchandise or the purchase 16 price, damages, and costs may be brought by an owner pursuant 17 to this chapter in any court of competent jurisdiction, 18 including a court of small claims if the claim does not exceed 19 jurisdictional limits.

20 A conviction under chapter 714 is not required as a 21 condition precedent to the maintenance of an action pursuant 22 to this chapter.

23 Sec. 3. <u>NEW SECTION</u>. 645.3 LIABILITY.

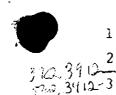
A person who knowingly and without claim of right
wrongfully appropriates, takes possession of, or alters the
price indicia of merchandise of a mercantile establishment
without the consent of the owner and with the intent to
convert the merchandise to the person's own use without having
paid the full purchase price for it, is liable for:
a. The return of the merchandise or the purchase price of
the merchandise, provided that the merchandise is not evidence
in a criminal proceeding under chapter 714.

33 b. Actual damages for any decrease in value of the 34 merchandise returned.

Stol. 3912-35 c. The greater of fifty dollars or actual costs incurred

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s.f. <u>343</u> H.f.



1 by the owner in recovering the merchandise or damages pursuant 2 to this chapter.

2. The parent or parents of an unemancipated minor child 4 under the age of eighteen years are liable for any judgment 5 awarded against the child pursuant to subsection 1 in 6 accordance with, and subject to the limits established in, 7 section 613.16.

## EXPLANATION

9 This bill provides that the wrongful appropriation or 10 possession of merchandise without payment can subject a person 11 to civil penalties. These penalties include the return of the 12 merchandise or the payment of the purchase price, payment for 13 any decrease in the value of the merchandise once returned, 14 and payment of the costs incurred by the owner in getting the 15 merchandise returned or in seeking a judgment for damages. 16 The bill also provides that the custodial parent or parents of 17 an unemancipated child can be held responsible for the payment 18 of a judgment against the child, up to set dollar limitations.

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LSB 2215SV 73 mj/jw/5

# HOUSE AMENDMENT TO SENATE FILE 343

S-3702 1 Amend Senate File 343, as passed by the Senate, as 2 follows: 1. Page 1, line 35, by inserting after the word 3 4 "costs" the following: ", not to exceed two hundred 5 dollars,". 2. Page 2, by inserting after line 2 the 6 7 following: 8 "2. Damages awarded under this section shall be 9 reduced by any amount received by the owner pursuant 10 to court ordered restitution under chapter 232A or 11 910." 3. Page 2, line 3, by striking the figure "2" and 12 "3". 13 inserting the following: RECEIVED FROM THE HOUSE

S-3702 FILED APRIL 14, 1989 XMYLE (MULLIER 4-17-SA (P-1415)



VARN, CH. GRONSTAL HAGERLA

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SSB 217 JudiciaRy

SENATE FILE  $\frac{343}{43}$ BY (proposed committee on Judiciary Bill)

Passed	Senate,	Date	Passed	House,	Date
Vote:	Ayes	Nays	Vote:	Ayes	Nays
	Ag	proved			

# A BILL FOR

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2	providing for civil penalties.																					
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TLSB 2215SC 73 mj/mj/8 S.F. H.F.



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1 Section 1. NEW SECTION. 645.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise 3 requires:

1. "Merchandise" includes any object, ware, good,
5 commodity, or other similar item displayed or offered for
6 sale.

7 2. "Mercantile establishment" includes any place where 8 merchandise is displayed, held, or offered for sale, either 9 retail or wholesale.

10 3. "Owner" means an owner of a mercantile establishment 11 and includes an owner's designee or employee acting on behalf 12 of the owner.

13 Sec. 2. <u>NEW SECTION</u>. 645.2 ACTIONS FOR MERCHANDISE OR 14 DAMAGES.

15 An action for recovery of merchandise or the purchase 16 price, damages, and costs may be brought pursuant to this 17 chapter in any court of competent jurisdiction, including a 18 court of small claims if the claim does not exceed 19 jurisdictional limits.

20 A conviction under chapter 714 is not required as a 21 condition precedent to the maintenance of an action pursuant 22 to this chapter.

23 Sec. 3. NEW SECTION. 645.3 LIABILITY.

A person who knowingly and without claim of right
wrongfully appropriates, takes possession of, or alters the
price indicia of merchandise of a mercantile establishment
without the consent of the owner and with the intent to
convert the merchandise to the person's own use without having
paid the full purchase price for it, is liable for:
a. The return of the merchandise or the purchase price of

31 the merchandise.

32 b. Actual damages for any decrease in value of the 33 merchandise returned.

34 c. Actual costs incurred by the owner in recovering the 35 merchandise or damages pursuant to this chapter.



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2. The parent or parents of an unemancipated minor child
2 under the age of eighteen years are liable for any judgment
3 awarded against the child pursuant to subsection 1 in
4 accordance with, and subject to the limits established in,
5 section 613.16.

### EXPLANATION

7 This bill provides that the wrongful appropriation or 8 possession of merchandise without payment can subject a person 9 to civil penalties. These penalties include the return of the 10 merchandise or the payment of the purchase price, payment for 11 any decrease in the value of the merchandise once returned, 12 and payment of the costs incurred by the owner in getting the 13 merchandise returned or in seeking a judgment for damages. 14 The bill also provides that the custodial parent or parents of 15 an unemancipated child can be held responsible for the payment 16 of a judgment against the child, up to set dollar limitations.



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LSB 2215SC 73 mj/mj/8

 "Owner" means an owner of a mercantile establishment and includes an owner's employee acting on behalf of the owner.

Sec. 2. <u>NEW SECTION</u>. 645.2 ACTIONS FOR MERCHANDISE OR DAMAGES.

An action for recovery of merchandise or the purchase price, damages, and costs may be brought by an owner pursuant to this chapter in any court of competent jurisdiction, including a court of small claims if the claim does not exceed jurisdictional limits.

A conviction under chapter 714 is not required as a condition precedent to the maintenance of an action pursuant to this chapter.

Sec. 3. NEW SECTION. 645.3 LIABILITY.

1. A person who knowingly and without claim of right wrongfully appropriates, takes possession of, or alters the price indicia of merchandise of a mercantile establishment without the consent of the owner and with the intent to convert the merchandise to the person's own use without having paid the full purchase price for it, is liable for:

a. The return of the merchandise or the purchase price of the merchandise, provided that the merchandise is not evidence in a criminal proceeding under chapter 714.

b. Actual damages for any decrease in value of the merchandise returned.

c. The greater of fifty dollars or actual costs, not to exceed two hundred dollars, incurred by the owner in recovering the merchandise or damages pursuant to this chapter.

2. Damages awarded under this section shall be reduced by any amount received by the owner pursuant to court ordered restitution under chapter 232A or 910.

3. The parent or parents of an unemancipated minor child under the age of eighteen years are liable for any judgment awarded against the child pursuant to subsection 1 in

#### SENATE FILE 343

#### AN ACT

RELATING TO RECOVERY OF MERCHANDISE OR DAMAGES AND PROVIDING FOR CIVIL PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 645.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

 "Merchandise" includes any object, ware, good, commodity, or other similar item displayed or offered for sale.

 "Mercantile establishment" includes any place where merchandise is displayed, held, or offered for sale, either retail or wholesale.

Senate File 343, p. 3

accordance with, and subject to the limits established in, section 613.16.

JO ANN ZIMMERMAN President of the Senate

DONALD D. AVENSON Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 343, Seventy-third General Assembly.

Approved <u>5/2</u>, 1989

JOHN F. DWYER Secretary of the Senate

TERRY E. BRANSTAD Governor