

1988 Field (Civ
Amend & DO PASS/3-3912, 4-6-89, (p. 1406)
FILED MAR 10 1989

SENATE FILE 343
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 217)

Passed Senate, Date 3-17-89 (p. 848) Passed House, Date 4-12-89 (p. 1509)
Vote: Ayes 41 Nays 9 Vote: Ayes 95 Nays 0
Approved 5-2-89 (p. 1851)

Revised by Senate
A BILL FOR
AN ACT RELATING TO RECOVERY OF MERCHANDISE OR DAMAGES AND
PROVIDING FOR CIVIL PENALTIES. 4-11-89 (p. 1470)

- 1 An Act relating to recovery of merchandise or damages and
- 2 providing for civil penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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SENATE FILE 343

H-3912

- 1 Amend Senate File 343, as passed by the Senate, as
- 2 follows:
- 3 1. Page 1, line 35, by inserting after the word
- 4 "costs" the following: ", not to exceed two hundred
- 5 dollars."
- 6 2. Page 2, by inserting after line 2 the
- 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."
- 12 3. Page 2, line 3, by striking the figure "2" and
- 13 inserting the following: "3".

By COMMITTEE ON JUDICIARY AND LAW
ENFORCEMENT
JAY of Appanoose, Chairperson

H-3912 FILED APRIL 7, 1989 Adopted 4-12-89 (p. 1509)

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1 Section 1. NEW SECTION. 645.1 DEFINITIONS.

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

4 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. NEW SECTION. 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 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. NEW SECTION. 645.3 LIABILITY.

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

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

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

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

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

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3 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.

8 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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HOUSE AMENDMENT TO
SENATE FILE 343

S-3702

1 Amend Senate File 343, as passed by the Senate, as
2 follows:
3 1. Page 1, line 35, by inserting after the word
4 "costs" the following: ", not to exceed two hundred
5 dollars,".
6 2. Page 2, by inserting after line 2 the
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."
12 3. Page 2, line 3, by striking the figure "2" and
13 inserting the following: "3".

RECEIVED FROM THE HOUSE

S-3702 FILED APRIL 14, 1989

Senate Consented 4-17-89 (p. 1415)

VARN, CH.
GRONSTAL
HAGERLA

SSB 217
JUDICIARY

SENATE FILE 343
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to recovery of merchandise or damages and
2 providing for civil penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 645.1 DEFINITIONS.

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

4 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. NEW SECTION. 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.

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

30 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.

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:

1. "Merchandise" includes any object, ware, good, commodity, or other similar item displayed or offered for sale.
2. "Mercantile establishment" includes any place where merchandise is displayed, held, or offered for sale, either retail or wholesale.

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

Sec. 2. NEW SECTION. 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

SF 343

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.

JOHN F. DWYER
Secretary of the Senate

Approved 5/2, 1989

TERRY E. BRANSTAD
Governor