

The House Committee on Judiciary Non-Civil offers the following substitute to HB 38:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated,
2 relating to theft, so as to define a term; to provide for related matters; to repeal conflicting
3 laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 style="text-align:center">**SECTION 1.**

6 Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft,
7 is amended by revising Code Section 16-8-14, relating to theft by shoplifting, by adding a
8 new subsection as follows:

9 "16-8-14.

10 (a) A person commits the offense of theft by shoplifting when such person alone or in
11 concert with another person, with the intent of appropriating merchandise to his or her own
12 use without paying for the same or to deprive the owner of possession thereof or of the
13 value thereof, in whole or in part, does any of the following:

14 (1) Conceals or takes possession of the goods or merchandise of any store or retail
15 establishment;

16 (2) Alters the price tag or other price marking on goods or merchandise of any store or
17 retail establishment;

18 (3) Transfers the goods or merchandise of any store or retail establishment from one
19 container to another;

20 (4) Interchanges the label or price tag from one item of merchandise with a label or price
21 tag for another item of merchandise; or

22 (5) Wrongfully causes the amount paid to be less than the merchant's stated price for the
23 merchandise.

24 (b)(1) A person convicted of the offense of theft by shoplifting, as provided in
25 subsection (a) of this Code section, when the property which was the subject of the theft

26 is \$500.00 or less in value shall be punished as for a misdemeanor; provided, however,
27 that:

28 (A) Upon conviction of a second offense for shoplifting, where the first offense is
29 either a felony or a misdemeanor, as defined by this Code section, in addition to or in
30 lieu of any imprisonment which might be imposed, the defendant shall be fined not less
31 than \$500.00, and the fine shall not be suspended or probated;

32 (B) Upon conviction of a third offense for shoplifting, when the first two offenses are
33 either felonies or misdemeanors, or a combination of a felony and a misdemeanor, as
34 defined by this Code section, in addition to or in lieu of any fine which might be
35 imposed, the defendant shall be punished by imprisonment for not less than 30 days or
36 confinement in a 'special alternative incarceration-probation boot camp,' probation
37 detention center, or other community correctional facility of the Department of
38 Corrections for a period of 120 days or shall be sentenced to monitored house arrest for
39 a period of 120 days and, in addition to such types of confinement, may be required to
40 undergo psychological evaluation and treatment to be paid for by the defendant; and
41 such sentence of imprisonment or confinement shall not be suspended, probated,
42 deferred, or withheld; and

43 (C)(i) As used in this subparagraph, the term 'conviction' shall include a plea of nolo
44 contendere.

45 (ii) Upon conviction of a fourth or subsequent offense for shoplifting, where the prior
46 convictions are either felonies or misdemeanors, or any combination of felonies and
47 misdemeanors, as defined by this Code section, the defendant commits a felony and
48 shall be punished by imprisonment for not less than one nor more than ten years; and
49 the first year of such sentence shall not be suspended, probated, deferred, or withheld.

50 (2) A person convicted of the offense of theft by shoplifting, as provided in
51 subsection (a) of this Code section, when the property which was the subject of the theft
52 exceeds \$500.00 in value commits a felony and shall be punished by imprisonment for
53 not less than one nor more than ten years.

54 (3) A person convicted of the offense of theft by shoplifting, as provided in
55 subsection (a) of this Code section, when the property which was the subject of the theft
56 is taken from three separate stores or retail establishments within one county during a
57 period of seven days or less and when the aggregate value of the property which was the
58 subject of each theft exceeds \$500.00 in value, commits a felony and shall be punished
59 by imprisonment for not less than one nor more than ten years.

60 (4) A person convicted of the offense of theft by shoplifting, as provided in
61 subsection (a) of this Code section, when the property which was the subject of the theft
62 is taken during a period of 180 days and when the aggregate value of the property which

63 was the subject of each theft exceeds \$500.00 in value, commits a felony and shall be
64 punished by imprisonment for not less than one nor more than ten years.

65 (c) In all cases involving theft by shoplifting, the term 'value' means the actual retail price
66 of the property at the time and place of the offense. The unaltered price tag or other
67 marking on property, or duly identified photographs thereof, shall be prima-facie evidence
68 of value and ownership of the property.

69 (d) Subsection (b) of this Code section shall in no way affect the authority of a sentencing
70 judge to provide for a sentence to be served on weekends or during the nonworking hours
71 of the defendant as provided in Code Section 17-10-3, relative to punishment for
72 misdemeanors."

73 **SECTION 2.**

74 All laws and parts of laws in conflict with this Act are repealed.