

SENATE BILL NO. 1131

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROBERTS.

4897S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 537.125, 544.180, and 563.051, RSMo, and to enact in lieu thereof three new sections relating to arrests by private persons.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 537.125, 544.180, and 563.051, RSMo,
2 are repealed and three new sections enacted in lieu thereof, to
3 be known as sections 537.125, 544.180, and 563.051, to read as
4 follows:

537.125. 1. As used in this section:

2 (1) "Mercantile establishment" means any mercantile
3 place of business in, at or from which goods, wares and
4 merchandise are sold, offered for sale or delivered from and
5 sold at retail or wholesale;

6 (2) "Merchandise" means all goods, wares and
7 merchandise offered for sale or displayed by a merchant;

8 (3) "Merchant" means any corporation, partnership,
9 association or person who is engaged in the business of
10 selling goods, wares and merchandise in a mercantile
11 establishment;

12 (4) "Wrongful taking" includes stealing of merchandise
13 or money and any other wrongful appropriation of merchandise
14 or money.

15 2. Any merchant, his **or her** agent or employee, who has
16 reasonable grounds [**or probable cause**] to believe that a
17 person has committed or is committing a wrongful taking of

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 merchandise or money from a mercantile establishment, may
19 detain such person in a reasonable manner and for a
20 reasonable length of time for the purpose of investigating
21 whether there has been a wrongful taking of such merchandise
22 or money. Any such reasonable detention shall not
23 constitute an unlawful arrest or detention **resulting in**
24 **violation of section 544.180**, nor shall it render the
25 merchant, his **or her** agent or employee, criminally or
26 civilly liable to the person so detained.

27 3. Any person willfully concealing unpurchased
28 merchandise of any mercantile establishment, either on the
29 premises or outside the premises of such establishment,
30 shall be presumed to have so concealed such merchandise with
31 the intention of committing a wrongful taking of such
32 merchandise within the meaning of subsection 1, and the
33 finding of such unpurchased merchandise concealed upon the
34 person or among the belongings of such person shall be
35 evidence of reasonable grounds [and probable cause] for the
36 detention in a reasonable manner and for a reasonable length
37 of time, of such person by a merchant, his **or her** agent or
38 employee, in order that recovery of such merchandise may be
39 effected, and any such reasonable detention shall not be
40 deemed to be unlawful, nor render such merchant, his **or her**
41 agent or employee criminally or civilly liable.

42 4. Any merchant, his **or her** agent or employee, who has
43 reasonable grounds [or probable cause] to believe that a
44 person has committed a wrongful taking of property, as
45 defined in this section, and who has detained such person
46 and investigated such wrongful taking, may contact law
47 enforcement officers and instigate criminal proceedings
48 against such person. Any such contact of law enforcement
49 authorities or instigation of a judicial proceeding shall

50 not constitute malicious prosecution, nor shall it render
51 the merchant, his **or her** agent or employee criminally or
52 civilly liable to the person so detained or against whom
53 proceedings are instigated.

544.180. **1. This section shall be known and may be
2 cited as "The Ahmaud Arbery Act".**

3 **2.** An arrest is made by an actual restraint of the
4 person of the defendant, or by [his] **the person's** submission
5 to the custody of [the] **a peace officer of any political
6 subdivision of this state certified pursuant to chapter 590,**
7 under authority of a warrant or otherwise. The officer must
8 inform the defendant by what authority he **or she** acts, and
9 must also show the warrant if required.

10 **3. A private person's right to make an arrest as it
11 existed under the common law of this state is abrogated
12 except nothing in this subsection shall be construed as
13 limiting or altering any defense or immunity under section
14 537.125 or chapter 563.**

563.051. **1.** A private person who has been directed by
2 a person he or she reasonably believes to be a law
3 enforcement officer to assist such officer to effect an
4 arrest or to prevent escape from custody may, subject to the
5 limitations of subsection [3] **2** of this section, use
6 physical force when and to the extent that he or she
7 reasonably believes such to be necessary to carry out such
8 officer's direction unless he or she knows or believes that
9 the arrest or prospective arrest is not or was not
10 authorized. **An individual detained by a private person
11 under this section who is not immediately released shall be
12 surrendered to a peace officer certified under chapter 590
13 within a reasonable time and with any personal belongings
14 that may have been removed from such individual.**

15 2. [A private person acting on his or her own account
16 may, subject to the limitations of subsection 3 of this
17 section, use physical force to arrest or prevent the escape
18 of a person whom such private person reasonably believes has
19 committed an offense, and who in fact has committed such
20 offense, when the private person's actions are immediately
21 necessary to arrest the offender or prevent his or her
22 escape from custody.

23 3.] A private person in effecting an arrest or in
24 preventing escape from custody is justified in using deadly
25 force only:

26 (1) When deadly force is authorized under other
27 sections of this chapter; [or]

28 (2) When he or she reasonably believes deadly force is
29 authorized under the circumstances and he or she is directed
30 or authorized by a law enforcement officer to use deadly
31 force; [or] **and**

32 (3) When he or she reasonably believes such use of
33 deadly force is immediately necessary to arrest a person who
34 at that time and in his or her presence:

35 (a) Committed or attempted to commit a class A felony
36 or murder; or

37 (b) Is attempting to escape by use of a deadly weapon.

38 [4.] 3. The defendant shall have the burden of
39 injecting the issue of justification under this section.

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