

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1260
(Representatives Wrangham, Delzer, DeKrey)
(Senators Erbele, Freborg)

AN ACT to amend and reenact section 51-21-05 of the North Dakota Century Code, relating to civil liability for retail theft.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 51-21-05 of the North Dakota Century Code is amended and reenacted as follows:

51-21-05. Civil remedy against adult shoplifters or the parent of a minor shoplifter.

1. An adult who commits the offense of theft from a merchant is civilly liable to the merchant for the retail value of the merchandise, plus exemplary damages of not more than two hundred fifty dollars, costs of ~~suit~~the civil action, and reasonable attorney's fees.
2. The parent or legal guardian of an unemancipated minor who while living with the parent or legal guardian commits the offense of theft from a merchant is civilly liable to the merchant for the retail value of the merchandise, plus exemplary damages of not more than two hundred fifty dollars, costs of ~~suit~~the civil action, and reasonable attorney's fees. If the merchant knows or reasonably should know that the individual believed to have committed theft is a minor, the merchant may not request that the individual sign an admission of theft or other similar declaration unless the minor's parent, guardian, or attorney is present. An admission in violation of this subsection is not valid and is inadmissible in a civil or criminal action.
3. A conviction or plea of guilty for the theft is not a prerequisite to the bringing of a ~~suit hereunder~~civil action under this section. However, if a criminal theft charge is filed against the individual, the merchant may not pursue civil damages until completion of the criminal action.
4. A parent or legal guardian of an unemancipated minor is not civilly liable under this section if it is determined by the court that one of the principal rationales for the shoplifting was a desire on the part of the minor to cause the minor's parent or legal guardian to be liable under this section.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1260.

House Vote: Yeas 65 Nays 27 Absent 2

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State