

House Bills 5125 and 5126
Sponsor: Rep. Michael Bishop
Committee: Criminal Justice

Complete to 12-10-01

A SUMMARY OF HOUSE BILLS 5125 and 5126 AS INTRODUCED 10-2-01

House Bill 5125 would prohibit the sale or possession of shields or tools that foil retail theft detectors and House Bill 5126 would specify that a violation of the prohibition would result in a one-year felony offense. Specifically, the bills would do the following:

House Bill 5125 would amend the Michigan Penal Code (MCL 750.360a) to prohibit the following conduct:

- Possessing a laminated or coated bag or device intended to shield merchandise from detection by an electronic or magnetic theft detector with the intent to commit or attempt to commit larceny;
- Manufacturing, selling, offering for sale, or distributing (or attempting to do any of these) a bag or device intended to shield merchandise from detection by an electronic or magnetic theft detector knowing or reasonably believing that the device would be used to commit or attempt to commit larceny;
- Possessing a tool or device designed to deactivate or remove a theft detection device from merchandise with the intent to utilize the device without the permission of the merchant or person owning or lawfully holding that merchandise with the intent to commit or attempt to commit larceny;
- Manufacturing, selling, offering for sale, or distributing a tool or device designed to deactivate or remove a theft detection device from merchandise without the permission of the merchant or person owning or lawfully holding that merchandise knowing or reasonably believing that the device would be used to commit or attempt to commit larceny; and,
- Activating a theft detection device or remove a theft detection device from merchandise in a retail establishment prior to purchasing the merchandise with the intent to commit or attempt to commit a larceny.

Violation of the bill would be a felony punishable by imprisonment for not more than one year or a fine of not more than \$500, or both. If a store posted a notice on the premises that the establishment utilized antishoplifting or inventory control devices, then the actions of a person who activated the antishoplifting or inventory control device by exiting or attempting to exit the store would constitute reasonable cause for the store owner, operator, or employee to detain the person; however, the detention would have to be conducted in a reasonable manner and only for a time sufficient for an inquiry into the circumstances surrounding the activation of the antishoplifting or inventory control device or for the recovery of the merchandise, or both.

The bill would also establish criminal and civil immunity for a law enforcement officer, security officer, merchant, or employee or agent of a merchant who detained a person under the provisions of the bill. Specifically, a law enforcement officer, security officer, merchant, or employee or agent of a merchant who acted in compliance with the bill's provisions would not be criminally or civilly liable for charges of false arrest, false imprisonment, unlawful detention, malicious persecution, intentional infliction of emotional distress, or defamation.

House Bill 5126 would amend the Code of Criminal Procedure (MCL 777.16r) to specify that to possess, manufacture, sell, or distribute a theft detector shield or theft detector deactivation tool, or to deactivate or remove a theft detection device with intent to commit larceny would be a Class G property offense with a maximum term of imprisonment of one year. The bill is tie-barred to House Bill 5125.

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.