

No. 139

AN ACT

SB 796

Amending the act of June 24, 1939 (P.L.872), entitled "An act to consolidate, amend and revise the penal laws of the Commonwealth," further penalizing shoplifters.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 816.1, act of June 24, 1939 (P.L.872), known as "The Penal Code," amended December 30, 1959 (P.L.2062) and July 31, 1968 (Act No. 285), is amended to read:

Section 816.1. Shoplifting.—(a) Whoever shall wilfully take possession of any goods, wares or merchandise offered for sale *or exhibited* by any [store or other mercantile establishment,] *person* with the intention of converting the same to his own use without paying the purchase price thereof, *or with the intention of depriving the owner of the possession thereof without his consent*, shall be guilty of shoplifting, and, upon conviction thereof in a summary proceeding, shall be sentenced to pay a fine of not less than twenty-five dollars (\$25) and not more than five hundred dollars (\$500), or to undergo imprisonment of not less than five (5) days and not more than ninety (90) days, or both. A charge of shoplifting shall be brought before a magistrate, alderman or justice of the peace in the city, borough, town or township in which the offense was committed; however, if there is no duly elected or appointed magistrate, alderman or justice of the peace in the city, borough, town or township in which the offense was committed, then a charge of shoplifting shall be brought before a magistrate, alderman or justice of the peace in an adjacent city, borough, town or township within the same county. Any fine imposed in a summary proceeding pursuant to the provisions of this section shall be decreed to be paid to the city, borough, town or township in which the offense was committed, for the use of such city, borough, town or township.

(b) Any person wilfully concealing unpurchased *or exhibited* goods or merchandise of any [store or other mercantile establishment,] *person*, either on the the premises or outside the [premises of such store,] *place of sale or exhibition* shall be prima facie presumed to have so concealed such article with the intention of converting the same to his own use without paying the purchase price thereof, *or with the intention of depriving the owner of the possession thereof without his consent*, within the meaning of subsection (a) of this section, and the finding of such [unpurchased] goods or merchandise concealed, upon the person or among the belongings of such person, shall be prima facie evidence of wilful concealment, and, if such person conceals, or causes to be concealed, such [unpurchased] goods or merchandise,

upon the person or among the belongings of another, the finding of the same shall also be prima facie evidence of wilful concealment on the part of the person so concealing such goods. Persons so concealing such goods may be detained, in a reasonable manner and for a reasonable length of time, by a peace officer or **[a merchant or a merchant's] by the person exhibiting or attempting to sell such goods, or his** employe in order that recovery of such goods may be effected. Such detention by a peace officer, **[merchant or a merchant's] or any such person or his** employe shall not render such peace officer, **[merchant or merchant's] person or his** employe, criminally or civilly, liable for false arrest, false imprisonment or unlawful detention.

(c) The offenses for which penalties and the presumptions are herein provided shall not be exclusive, and shall be in addition to previously existing offenses, and such rights and presumptions as were heretofore provided by law. No magistrate, alderman or justice of the peace shall have the power to reduce any charge of larceny to a charge of shoplifting as defined in this section.

Section 2. This act shall take effect immediately.

APPROVED—The 8th day of November, A. D. 1971.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 139.

A handwritten signature in cursive script, reading "C. McLaughlin Tucker".

*Secretary of the Commonwealth.*