

2011 DRAFTING REQUEST

Senate Amendment (SA-SB85)

Received: **09/20/2011**

Received By: **phurley**

Wanted: **As time permits**

Companion to LRB:

For: **Rich Zipperer (608) 266-9174**

By/Representing: **Chris Reader**

May Contact:

Drafter: **phurley**

Subject: **Criminal Law - miscellaneous**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Zipperer@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Theft of certain services

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	phurley 09/21/2011	csicilia 09/29/2011	rschluet 09/29/2011	_____	lparisi 09/29/2011		
/1	phurley 09/30/2011	csicilia 10/03/2011	rschluet 10/03/2011	_____	mbarman 10/03/2011	mbarman 10/03/2011	

FE Sent For:

<END>

2011 DRAFTING REQUEST

Senate Amendment (SA-SB85)

Received: 09/20/2011

Received By: phurley

Wanted: As time permits

Companion to LRB:

For: Rich Zipperer (608) 266-9174

By/Representing: Chris Reader

May Contact:

Drafter: phurley

Subject: Criminal Law - miscellaneous

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Sen.Zipperer@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Theft of certain services

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	phurley 09/21/2011	csicilia 09/29/2011	rschluet 09/29/2011	_____	lparisi 09/29/2011		

FE Sent For:

<END>

2011 DRAFTING REQUEST

Senate Amendment (SA-SB85)

Received: 09/20/2011

Received By: phurley

Wanted: As time permits

Companion to LRB:

For: Rich Zipperer (608) 266-9174

By/Representing: Chris Reader

May Contact:

Drafter: phurley

Subject: Criminal Law - miscellaneous

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Sen.Zipperer@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Theft of certain services

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	phurley	Plg's	9/29 11 429	_____	_____		

FE Sent For:

<END>

Hurley, Peggy

From: Reader, Chris

Sent: Tuesday, September 20, 2011 3:56 PM

To: Hurley, Peggy

Subject: SB85 amendment

Hey Peggy, could you draft an amendment to SB85 for Senator Zipperer?

In section 5, we would like to clarify that the stated price has to be stated before the service is provided.

In section 6, we would like to amend it so that a person would have to abscond as part of their failure to pay. Perhaps amend page 2 line 17 to read of the service, absconds and intentionally fails or refuses to pay for the service.

In section 7, regarding detention, we would like to amend it so that service providers can only detain as provided in 943.50(3) within a place of business where the service is performed (i.e., not in a residence)

Please send it to me as a preliminary draft first.

Thanks Peggy!

Chris Reader

Chief of Staff

Senator Rich Zipperer

State Capitol Room 323 South

(608) 266-9174



2011 SENATE BILL 85

May 3, 2011 - Introduced by Senators ZIPPERER, GALLOWAY, HOLPERIN, LASEE, LEIBHAM, OLSEN and SCHULTZ, cosponsored by Representatives KLEEFISCH, FARROW, KAUFERT, BERNIER, BROOKS, CLARK, KESTELL, KNILANS, A. OTT, PETERSEN, PRIDEMORE, RIVARD, SPANBAUER, STRACHOTA and ZIEGELBAUER. Referred to Committee on Judiciary, Utilities, Commerce, and Government Operations.

1 **AN ACT to renumber** 943.50 (1) (a); **to amend** 943.50 (title) and 943.50 (3); and
2 **to create** 943.50 (1) (ad), 943.50 (1) (am), 943.50 (1) (b) 3., 943.50 (1r) and
3 943.51 (1) (am) of the statutes; **relating to:** theft of certain services and
4 providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits retail theft. A person who steals from a merchant is subject to penalties that vary according to the value of the merchandise that was stolen. Retail theft is a Class A misdemeanor if the value of the merchandise does not exceed \$2,500, a Class I felony if the value of the merchandise exceeds \$2,500 but does not exceed \$5,000, a Class H felony if the value of the merchandise exceeds \$5,000 but does not exceed \$10,000, and a Class G felony if the value of the merchandise exceeds \$10,000.

This bill defines “merchandise” to include a service provided by a “service provider.” A “service provider” is a merchant who provides service to a retail customer without a written contract with the expectation that the customer will pay for the service upon completion of the service.

Under the bill, a person who obtains a service and who intentionally fails or refuses to pay for the service is guilty of retail theft and subject to the same penalties as under current law.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a

SENATE BILL 85

report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 943.50 (title) of the statutes is amended to read:

2 **943.50** (title) **Retail theft; theft of services.**

3 **SECTION 2.** 943.50 (1) (a) of the statutes is renumbered 943.50 (1) (ag).

4 **SECTION 3.** 943.50 (1) (ad) of the statutes is created to read:

5 943.50 (1) (ad) "Merchandise" includes a service provided by a service provider.

6 **SECTION 4.** 943.50 (1) (am) of the statutes is created to read:

7 943.50 (1) (am) "Service provider" means a merchant who provides a service
8 to retail customers without a written contract with the expectation that the service
9 will be paid for by the customer upon completion of the service.

10 **SECTION 5.** 943.50 (1) (b) 3. of the statutes is created to read:

11 943.50 (1) (b) 3. For a service provided by a service provider, the service
12 provider's ~~stated price~~ ^{price} for the service ^{before the service} _{is provided}

13 **SECTION 6.** 943.50 (1r) of the statutes is created to read:

14 943.50 (1r) Any person may be penalized as provided in sub. (4) if, having
15 obtained a service from a service provider, he or she, without the service provider's
16 consent and with intent to deprive the service provider permanently of the full price
17 of the service, ^{absconds and} intentionally fails or refuses to pay for the service.

18 **SECTION 7.** 943.50 (3) of the statutes is amended to read:

19 943.50 (3) A merchant or service provider, a merchant's or service provider's
20 adult employee or a merchant's or service provider's security agent who has
21 reasonable cause for believing that a person has violated this section in his or her

SENATE BILL 85

within the merchant or service provider's place of business where he

off
violates
book
place

1 presence may detain the person in a reasonable manner for a reasonable length of
 2 time to deliver the person to a peace officer, or to his or her parent or guardian in the
 3 case of a minor. The detained person must be promptly informed of the purpose for
 4 the detention and be permitted to make phone calls, but he or she shall not be
 5 interrogated or searched against his or her will before the arrival of a peace officer
 6 who may conduct a lawful interrogation of the accused person. The merchant or
 7 service provider, merchant's or service provider's adult employee or merchant's or
 8 service provider's security agent may release the detained person before the arrival
 9 of a peace officer or parent or guardian. Any merchant or service provider,
 10 merchant's or service provider's adult employee or merchant's or service provider's
 11 security agent who acts in good faith in any act authorized under this section is
 12 immune from civil or criminal liability for those acts.

13 **SECTION 8.** 943.51 (1) (am) of the statutes is created to read:

14 943.51 (1) (am) The retail value of the service provided by a service provider,
 15 as defined in s. 943.50 (1) (am). A person may recover under this paragraph only if
 16 he or she exercises due diligence in demanding payment for the service.

17 (END)



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT,
TO 2011 SENATE BILL 85

g's

9.21-11

full list

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 2, line 11: after "provider, the" insert "price that the".
- 3 **2.** Page 2, line 12: delete that line and substitute: "provider stated for the
- 4 service before the service ~~is~~ provided." *was*
- 5 **3.** Page 2, line 17: after "service," insert "absconds and".
- 6 **4.** Page 3, line 1: after "detain" insert "within or at the ~~merchant~~ or service
- 7 provider's place of business where the suspected violation took place,".

merchant vs

scoring

(END)

Hurley, Peggy

From: Reader, Chris

Sent: Friday, September 30, 2011 8:32 AM

To: Hurley, Peggy

Subject: sb85

Peggy, thank you for the amendment to SB85. It looks good, please convert it to an amendment for jacketing.

Thanks!

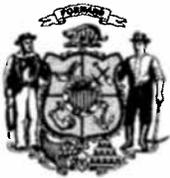
Chris Reader

Chief of Staff

Senator Rich Zipperer

State Capitol Room 323 South

(608) 266-9174



stays (MR)

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE AMENDMENT,
TO 2011 SENATE BILL 85**

no change
but for 1A
to 1

which

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 2, line 11: after “provider, the” insert “price that the”.
- 3 **2.** Page 2, line 12: delete that line and substitute “provider stated for the
- 4 service before the service was provided.”.
- 5 **3.** Page 2, line 17: after “service,” insert “absconds and”.
- 6 **4.** Page 3, line 1: after “detain” insert “, within or at the merchant’s or service
- 7 provider’s place of business where the suspected violation took place.”.

8 (END)