

2011 DRAFTING REQUEST

Bill

Received: **08/31/2010**

Received By: **csundber**

Wanted: **As time permits**

Companion to LRB:

For: **Joel Kleefisch (608) 266-8551**

By/Representing: **Daniel Lindstedt**

May Contact:

Drafter: **csundber**

Subject: **Trade Regulation - other**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Kleefisch@legis.wisconsin.gov**

Carbon copy (CC:) to: **christopher.sundberg@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Retail theft; proof of ownership for sales at flea market

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>
/?	csundber 09/02/2010 chanaman 09/09/2010	jdyer 09/14/2010		_____			Crime
/1			rschluet 09/15/2010	_____	lparisi 09/15/2010	sbasford 12/16/2010	

FE Sent For:

↳ Not Needed

<END>

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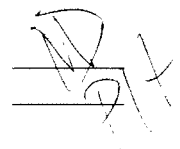
Retail theft; proof of ownership for sales at flea market

Instructions:

See attached

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/?	csundber	1 9/14 jld					
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FE Sent For:

<END>

Bill Request Form

Legislative Reference Bureau
One East Main Street, Suite 200
Legal Section 266-3561

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date 27. JUL. 10

Legislator, agency, or other person requesting this draft REP. KLEEFISCH

Person submitting request (name and phone number) DANIEL LINDSTEDT

Persons to contact for questions about this draft (names and phone numbers) DANIEL LINDSTEDT (6-8551)

Describe the problem, including any helpful examples. How do you want to solve the problem?

- REDRAFT 2009 AB 241, AS AMENDED, AS
A "P-DRAFT."

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

- SEE ATTACHMENT

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 2005 LRB-2345/1 or 2003 AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES NO

If yes: Anyone who asks? YES NO
 Any legislator? YES NO

Only the following persons _____

Do you consider this request urgent? YES NO If yes, please indicate why _____

Should we give this request priority over any pending request of this legislator, agency, or person?

YES NO

History of Assembly Bill 241

ASSEMBLY BILL 241

LC Amendment Memo

An Act to amend 943.50 (4) (a), 943.50 (4) (bf) and 946.82 (4); and to create 134.715, 943.50 (3m) (am) and 943.50 (4m) of the statutes; relating to: retail theft, proof of ownership for flea market sales, and providing penalties.

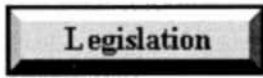
2009

04-30.	A.	Introduced by Representatives Danou, Turner, Jorgensen, Pasch, Kestell, Van Roy, Brooks, Lothian, Kerkman, Staskunas, A. Ott, Steinbrink, Zepnick, Kleefisch, Kaufert, Bies and Hebl; cosponsored by Senators Taylor, Sullivan, Kreitlow, Holperin, Lassa, Wirch, Harsdorf and Darling.	
04-30.	A.	Read first time and referred to committee on Criminal Justice	166
05-28.	A.	Public hearing held.	
10-01.	A.	Executive action taken.	
10-09.	A.	Report passage recommended by committee on Criminal Justice, Ayes 9, Noes 1	426
10-09.	A.	Referred to committee on Rules	426
10-29.	A.	Placed on calendar 11-3-2009 by committee on Rules.	
11-03.	A.	Read a second time	486
11-03.	A.	Assembly amendment <u>1</u> offered by Representative Young	486
11-03.	A.	Assembly amendment <u>1</u> laid on table, <u>Ayes 79, Noes 13</u>	486
11-03.	A.	Assembly amendment <u>2</u> offered by Representatives Danou and Molepske Jr.	486
11-03.	A.	Assembly amendment <u>2</u> adopted	486
11-03.	A.	Ordered to a third reading	486
11-05.	A.	Read a third time and passed	499
11-05.	A.	Representative Spanbauer added as a coauthor	499
11-05.	A.	Ordered immediately messaged	499
11-06.	S.	Received from Assembly	415
11-09.	S.	Read first time and referred to committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing	417

2010

02-04.	S.	Public hearing held.	
02-05.	S.	Report of joint review committee on Criminal Penalties requested pursuant to s. 13.525 (5) Wisconsin Statutes	545
02-19.	S.	<u>Report</u> of joint review committee on Criminal Penalties received	574
03-03.	S.	Executive action taken.	
03-04.	S.	Report concurrence recommended by committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing, Ayes 5, Noes 0	613
03-04.	S.	Available for scheduling.	
04-28.	S.	Failed to concur in pursuant to Senate Joint Resolution 1	782

[Search for another history](#)



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**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2009 Assembly Bill 241	Assembly Amendment 2
<i>Memo published:</i> November 16, 2009	<i>Contact:</i> Don Dyke, Chief of Legal Services (266-0292)

Among other things, Assembly Bill 241:

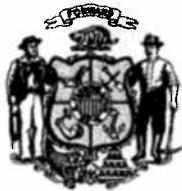
1. Makes retail theft a Class I felony if the value of the merchandise exceeds \$1,500 but does not exceed \$5,000. Currently, the threshold is \$2,500.
2. Makes retail theft a Class I felony if the value of the merchandise does not exceed \$1,500 and if there is intent to sell the merchandise by means of the Internet. (Evidence that a person sold by means of the Internet similar merchandise within 90 days before the violation is *prima facie* evidence of the person's intent to sell the merchandise by means of the Internet.)

Assembly Amendment 2 modifies the second violation described above by adding the element that the violator "agrees or combines with another to commit the violation."

Legislative History

Assembly Amendment 2 was offered by Representative Danou. The Assembly adopted the amendment and passed the proposal on a voice vote.

DD:ty



State of Wisconsin
2009 - 2010 LEGISLATURE

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LRB-2684/1
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11 12
2011 BILL

2009 ASSEMBLY BILL 241

LPS
PWF
Please

April 30, 2009 - Introduced by Representatives DANOU, TURNER, JORGENSEN, PASCH, KESTELL, VAN ROY, BROOKS, LOTHIAN, KERKMAN, STASKUNAS, A. OTT, STEINBRINK, ZEPNICK, KLEEFISCH, KAUFERT, BIES and HEBL, cosponsored by Senators TAYLOR, SULLIVAN, KREITLOW, HOLPERIN, LASSA, WIRCH, HARS DORF and DARLING. Referred to Committee on Criminal Justice.

4

Gen

1 AN ACT to amend 943.50 (4) (a), 943.50 (4) (bf) and 946.82 (4); and to create
2 134.715, 943.50 (3m) (am) and 943.50 (4m) of the statutes; relating to: retail
3 theft, proof of ownership for flea market sales, and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, the penalty for retail theft is based on the value of the merchandise taken. 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.

Also under current law a person may be convicted of engaging in organized crime, a Class E felony, if the person participates as part of an enterprise in the commission of at least three incidents of racketeering activity that have the same or similar intents, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics. "Racketeering activity" is the attempt, conspiracy to commit, or commission of various felonies including felony retail theft.

This bill makes retail theft of merchandise a Class I felony, and racketeering activity, if the value of the merchandise exceeds \$1,500 but does not exceed \$5,000. The bill also makes retail theft of merchandise that is valued at less than \$1,500 a Class I felony, and racketeering activity, if the actor commits the theft with intent to sell the merchandise by means of the Internet. The bill further provides that

is more than
is more than

ASSEMBLY BILL 241

evidence that a person sold merchandise that is similar to stolen merchandise, by means of the Internet and within 90 days preceding the theft, is evidence of the person's intent to sell the stolen merchandise by means of the Internet.

INSERT A

The bill also requires a person selling certain merchandise at a flea market or similar facility to have proof that the person owns the merchandise and to make the proof available to a law enforcement officer for inspection. The merchandise covered by the bill's requirements includes baby food, cosmetics, drugs, infant formula, and batteries. Under the bill, "proof of ownership" means all of the following: 1) the name, address, and telephone number of the supplier of the merchandise; 2) the name and address of the person that received the merchandise; and 3) a description of the merchandise. Violators are subject to a fine up to \$500, up to 30 days' imprisonment, or both.

CRIME

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

SECTION 1. 134.715 of the statutes is created to read:

134.715 Flea markets; proof of ownership, receipts, returns. (1)

DEFINITIONS. In this section:

(a) "Cosmetic" means an article intended to be applied to the human body for cleansing, beautifying, or altering appearance, but does not include soap.

(b) "Device" has the meaning given in s. 450.01 (6).

(c) "Drug" has the meaning given in s. 450.01 (10).

(d) "Infant formula" means a food that is intended for consumption by infants.

(2) PROOF REQUIRED. (a) A person engaged in the sale of used or new goods at

a flea market or at a similar facility may not sell any of the following merchandise,

unless the person has proof that the person is the owner of the merchandise

described in par. (b):

1. Baby food of a type usually consumed by children under 3 years of age.

2. Cosmetics.

3. Devices.

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ASSEMBLY BILL 241

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- 4. ✓ Drugs.
- 5. ✓ Infant formula.
- 6. ✓ Batteries.
- 7. ✓ Razor blades.

INSERT
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(b) "Proof of ownership" means all of the following information: ✓

1. The name, address, and telephone number of the person that supplied the merchandise or a representative of the person that supplied the merchandise. ✓
2. The name and address of the person that received the merchandise from the person who supplied the merchandise. ✓
3. A description of the product, including the quantity of the product received from the person who supplied the merchandise. ✓

(c) A person required to have proof of ownership under this section shall make proof of ownership available for inspection by a law enforcement officer at any reasonable time. ✓

(3) PENALTY. A person who violates this section may be fined not more than \$500 or imprisoned for not more than 30 days or both. ✓

SECTION 2. 943.50 (3m) (am) of the statutes is created to read:

943.50 (3m) (am) For the purpose of sub. (4m), evidence that a person sold by means of the Internet merchandise that is similar to the merchandise that is the subject of a violation under sub. (1m) (a), (b), (c), (d), (e), or (f), within 90 days before the violation, is prima facie evidence of the person's intent to sell the merchandise by means of the Internet. ✓

SECTION 3. 943.50 (4) (a) of the statutes is amended to read:

943.50 (4) (a) ~~A~~ Except as provided in sub. (4m), a Class A misdemeanor, if the value of the merchandise does not exceed \$2,500 \$1,500. ✓

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SECTION 4. 943.50 (4) (bf) of the statutes is amended to read:

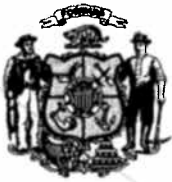
943.50 (4) (bf) A Class I felony, if the value of the merchandise exceeds \$2,500
\$1,500 but does not exceed \$5,000.

SECTION 5. 943.50 (4m) of the statutes is created to read:

~~943.50 (4m) Whoever violates sub. (1m) (a), (b), (c), (d), (e), or (f) with intent
to sell the merchandise by means of the Internet is guilty of a Class I felony if the
value of the merchandise does not exceed \$1,500.~~

SECTION 6. 946.82 (4) of the statutes is amended to read:

946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961
(1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission
of any of the felonies specified in: chs. 945 and 961, subch. V of ch. 551, and ss. 49.49,
134.05, 139.44 (1), 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625,
221.0636, 221.0637, 221.1004, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19 (4) to (6),
940.20, 940.201, 940.203, 940.21, 940.30, 940.302 (2), 940.305, 940.31, 941.20 (2) and
(3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d), or (2g), 943.011,
943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (bf) to (e),
943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), 943.27, 943.28, 943.30, 943.32,
943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4)
(bf), (bm), and (c) and (4m), 943.60, 943.70, 943.76, 943.81, 943.82, 943.83, 943.84,
943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c) and (e), 944.32, 944.33
(2), 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10, 946.11, 946.12,
946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76,
946.79, 947.015, 948.05, 948.051, 948.08, 948.12, and 948.30.



ASSEMBLY AMENDMENT 2,
TO 2009 ASSEMBLY BILL 241

CRS
4-5

November 3, 2009 - Offered by Representatives DANOU and MOLEPSKE JR..

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~~At the locations indicated, amend the bill as follows.~~

~~1. Page 4, line 5: delete lines 5 to 7 and substitute:~~

943.50 (4m) Whoever violates sub. (1m) (a), (b), (c), (d), (e), or (f) is guilty of a Class I felony if all of the following apply:
(a) The value of the merchandise does not exceed \$1,500.
(b) The person agrees or combines with another to commit the violation.
(c) The person intends to sell the merchandise by means of the Internet.

~~(END)~~

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0032/1ins
CMH:.....

1 Insert A

Under current law, the penalty for retail theft varies according to the value of the merchandise taken. Retail theft is a Class G felony if the value of the merchandise is more than \$10,000, a Class H felony if the value of the merchandise is more than \$5,000 but not more than \$10,000, a Class I felony if the value of the merchandise is more than \$2,500 but not more than \$5,000, and a Class A misdemeanor if the value of the merchandise is not more than \$2,500. This bill changes the penalties so that retail theft is a Class I felony if the value of the merchandise is more than \$1,500 but not more than \$5,000. Retail theft of merchandise with a value that is not more than \$1,500 remains a Class A misdemeanor unless the actor ~~agrees~~ acts with another to commit the theft and the actor has the intent to sell the merchandise by means of the Internet, and then the theft is a Class I felony.

Felony retail theft, including the felonies this bill creates, is a racketeering activity; a person may be convicted of engaging in organized crime, which is a Class E felony, if the person participates as part of an enterprise in committing at least three incidents of racketeering activities that have similar intents, results, accomplices, victims, or methods of commission.

2

Basford, Sarah

From: Redell2, Carol
Sent: Thursday, December 16, 2010 1:16 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-0032/1 Topic: Retail theft; proof of ownership for sales at flea market

Please Jacket LRB 11-0032/1 for the ASSEMBLY.