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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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<b>2011 Senate Bill 85</b>	<b>Senate Amendment 1</b>
<i>Memo published:</i> October 4, 2011 <span style="float: right;"><i>Contact:</i> Anne Sappenfield, Senior Staff Attorney (267-9485)</span>	

**Current law** prohibits retail theft. The penalty for a retail theft conviction is based on the value of the merchandise stolen.

**The bill** provides that “merchandise,” as defined for purposes of the retail theft offense, includes a service provided by a service provider. “Service provider” is defined as a merchant who provides a service to retail customers without a written contract with the expectation that the service will be paid for by the customer upon completion of the service.

Under the bill, a person may be penalized under the retail theft statute if, having obtained a service from a service provider, he or she, without the service provider’s consent and with intent to deprive the service provider permanently of the full price of service, intentionally fails or refuses to pay for the service. The penalty in the bill is based on the value of the service, which is the service provider’s stated price for the service.

As for current law relating to retail theft, a service provider may detain a person if he or she has reasonable cause for believing that the person has violated the offense of theft of a service. In addition, a person who steals a service may be held civilly liable by a service provider.

**The amendment** makes the following changes to the bill:

- The value of the service provided, for purposes of determining the penalty for theft of a service, is the price that the service provider stated for the service before the service was provided.
- In order to be found guilty of the offense of theft of services, the person must **abscond and** intentionally fail or refuse to pay for the service.

- A service provider may only detain a person believed to have committed theft of a service within or at the merchant's or service provider's place of business where the suspected violation took place.

**Legislative History**

Senator Zipperer offered Senate Amendment 1. On October 4, 2011, the Senate Committee on Judiciary, Utilities, Commerce, and Government Operations unanimously voted to recommend adoption of the amendment and passage of the bill, as amended.

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