



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

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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 for the service.

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, 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

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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)