

ENROLLMENT(S)

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COUNCIL OF THE DISTRICT OF COLUMBIA

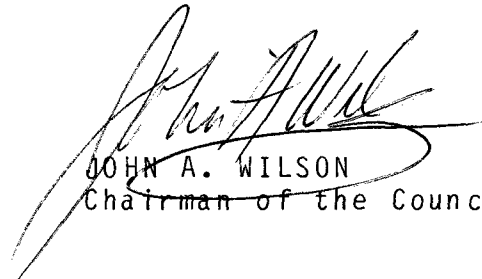
NOTICE

D.C. LAW 9-98

"Merchant's Civil Recovery for Criminal
Conduct Act of 1992".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 9-152 on first and second readings, December 3, 1991, and January 7, 1992, respectively. Following the signature of the Mayor on January 28, 1992, this legislation was assigned Act No. 9-138, published in the February 7, 1992, edition of the D.C. Register, (Vol. 39 page 678) and transmitted to Congress on January 30, 1992 for a 60-day review, in accordance with Section 602(c)(2) of the Act.

The Council of the District of Columbia hereby gives notice that the 60-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 9-98, effective May 16, 1992.


JOHN A. WILSON
Chairman of the Council

Dates Counted During the 60-day Congressional Review Period:

January 30,31

February 3,4,5,6,7,18,19,20,21,24,25,26,27,28

March 2,3,4,5,6,9,10,11,12,13,16,17,18,19,20,23,24,25,26,
27,30,31

April 1,2,3,6,7,8,9,10,28,29,30

May 1,4,5,6,7,8,11,12,13,14,15

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 28, 1992

To provide a civil process for merchants in the District of Columbia to recover damages resulting from fraud, shoplifting, or theft.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Merchant's Civil Recovery for Criminal Conduct Act of 1992".

Sec. 2. Definitions.

For purposes of this act, the term:

(1) "Fraud" shall have the same meaning as that term is used in section 121 of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Code §22-3821).

(2) "Juvenile" means a person under 18 years of age.

(3) "Merchant" means a person who does or would sell, lease (to), or transfer, either directly or indirectly, consumer goods or services, or a person who does or would supply the goods or services which are or would be the subject matter of a trade practice.

(4) "Shoplifting" shall have the same meaning as that term has in section 113(a) of the District of Columbia Theft and White Collar Crime Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Code §22-3813(a)).

(5) "Theft" shall have the same meaning as that term is used in section 111 of the District of Columbia Theft and White Collar Crime Act of 1982, effective December 1, 1982 (D.C. Law 4-164; D.C. Code §22-3811).

New
Section
3-441

Sec. 3. Liability and Damages.

(a) Any one who commits an offense of fraud, shoplifting, or theft from a merchant shall be civilly liable to the merchant for treble the amount of actual damages; and

(1) The retail value of any goods or merchandise stolen if the goods or merchandise are not recovered;

(2) The loss of value of the goods or merchandise stolen if the goods or merchandise are recovered; or

(3) A minimum of \$50 in damages, whichever is greater.

(b) The parent or guardian shall be liable for any acts or offenses committed by a juvenile under this act.

New
Section
3-442

Sec. 4. Criminal Proceedings.

(a) The recovery of damages from the alleged offender shall prohibit criminal prosecution of the alleged offender.

(b) The recovery of civil damages by a merchant or a finding of liability under this act shall not be admissible in a criminal proceeding.

(c) A conviction or plea of guilty of fraud, shoplifting, or theft is not a prerequisite to the maintenance of a civil action authorized by this act.

New
Section
3-443

Sec. 5. Merchant's Options.

(a) A merchant who suffers damages as a result of fraud, shoplifting, or theft, may recover the damages by submitting written demand to the alleged offender or the parent or guardian of a juvenile alleged offender.

(b) The written demand shall:

(1) Be delivered or mailed to the alleged offender or parent or guardian of a juvenile alleged offender, at least 30 days prior to the filing of any suit for damages;

(2) Specify the alleged criminal conduct and the damages incurred as a result of the conduct;

(3) Specify the amount which the merchant is entitled to receive under this act and that if payment of this amount is made in accordance with the written demand or the terms of a written agreement between the merchant and the alleged offender or the parent or guardian of the juvenile alleged offender, within 30 days of the date of service of the demand, the merchant may bring a suit of damages.

(c) When the merchant receives payment of the specified amount or payment in accordance with the agreement for payments, the merchant shall deliver or mail an acknowledgement or payment letter to the alleged offender within 5 business days of receipt of payment.

New
Section
3-444

Sec. 6. Jurisdiction.

A suit for damages and penalties may be brought in the Superior Court of the District of Columbia.

New
Section
3-445

Sec. 7. Attorneys Fees.


Attorneys fees and costs shall be awarded under this act without regard to ability to pay.

New
Section
3-446


Sec. 8. Effective Date.

This act shall take effect after a 60-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(2) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code §1-233(c)(2)), and

publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: January 28, 1992



COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Nine

RECORD OF OFFICIAL COUNCIL VOTE

B9-152

DOCKET NO: _____

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 12-3-91

VOICE VOTE: Approved

Recorded vote on request

Absent: All Present

ROLL CALL VOTE: — RESULT _____ (____/____/____)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. WILSON					JARVIS					ROLARK				
BRAZIL					LIGHTFOOT					SMITH, JR.				
CRAWFORD					MASON					THOMAS, SR.				
CROPP					NATHANSON									
EVANS					RAY									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Phyllis (med)
Secretary to the Council

January 10, 1992
Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 1-7-92

VOICE VOTE: Approved

Recorded vote on request

Absent: Lightfoot

ROLL CALL VOTE: — RESULT _____ (____/____/____)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. WILSON					JARVIS					ROLARK				
BRAZIL					LIGHTFOOT					SMITH, JR.				
CRAWFORD					MASON					THOMAS, SR.				
CROPP					NATHANSON									
EVANS					RAY									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Phyllis (med)
Secretary to the Council

January 10, 1992
Date

Item on Consent Calendar

ACTION & DATE: _____

VOICE VOTE: _____

Recorded vote on request

Absent: _____

ROLL CALL VOTE: — RESULT _____ (____/____/____)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. WILSON					JARVIS					ROLARK				
BRAZIL					LIGHTFOOT					SMITH, JR.				
CRAWFORD					MASON					THOMAS, SR.				
CROPP					NATHANSON									
EVANS					RAY									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date