

From the Beat to the Bench November 2010

Tis' The Season for Shopping.....and Shoplifting!

The holiday season is upon us and retailers are looking forward to a better retail season. However, every year, at this time, we also experience an increase in the number of shoplifting incidents. Only a small percentage of these shoplifters are actually caught and prosecuted. Research shows that if all shoplifting incidents were detected it would be the most prominent crime in America. The Economist magazine reported shoplifting in the United States will cost over \$13 billion in 2010. If you factor in employee theft it would more than double for a combined total of more than \$27 billion. The cost of shoplifting impacts all of us because its cost is factored into the price of merchandise sold.

Under Ohio law, the theft of merchandise with a value of less than \$300 is a misdemeanor of the first degree if it is a first offense, subjecting the offender to a maximum jail sentence of six (6) months and a maximum fine of \$1,000.00. If it is the offender's second conviction of a theft offense, then regardless of the value of the merchandise stolen, the crime is a felony of the fourth degree and carries a maximum prison term of eighteen (18) months and a maximum fine of \$2,500. A third conviction for a theft offense, regardless of the merchandise's value constitutes a felony of the third degree and carries a maximum prison term of two years and a maximum fine of \$5,000.

A theft offender normally will be required by the court to make restitution to the merchant or other parties injured by the offender. The amount of restitution is set by the court.

According to the Shoplifting Prevention Coalition; more than \$13 billion worth of goods are stolen from retailers each year. That's more than \$35 million per day. There are approximately 27 million shoplifters (or 1 in 11 people) in our nation today. More than 10 million people have been caught shoplifting in the last five years. Shoplifters are divided approximately equally between men and women. Approximately 25 percent of shoplifters are minors, 75% are adults. 55 percent of adult shoplifters say they started shoplifting in their teens. Shoplifting is often not a premeditated crime. 73 percent of adult and 72 percent of juvenile shoplifters don't plan to steal in advance. Shoplifters say they are caught an average of only once in every 48 times they steal. They are turned over to the police only 50 percent of the time.

Drug addicts, who have become addicted to shoplifting, describe shoplifting as equally addicting as drugs. Habitual shoplifters steal an average of 1.6 times per week.

Victims of theft offenses may recover their losses from the offenders in a new form of civil recovery procedure in lieu of filing a lawsuit or of criminal prosecution. The civil recovery law allows a merchant to demand in a letter to the offender that he or she pay for the value of the goods taken plus "any other loss sustained" as the result of the theft offense. This other loss sustained can include the cost of apprehension as well as the demand letter. If the offender fails to pay within 30 days the merchant may still prosecute him or sue for civil recovery. Under civil recovery the law states the merchant is entitled to judgment for its loss demanded in the letter plus twice that amount plus court costs and attorney's fees.

If a theft offense has been committed by a juvenile a lawsuit may be filed against his parents. Any owner of property may maintain a civil action to recover compensatory damages not exceeding three thousand dollars and costs of suit from the parents who have the custody and control of a minor who willfully damages property belonging to the owner or who commits acts cognizable as a "theft offense".

The action may be to recover the property regardless of the value, but any additional damages recovered from the parents pursuant to this section shall be limited to compensatory damages not exceeding three thousand dollars. A finding of willful destruction of property or of committing acts cognizable as a theft offense is not dependent upon a prior finding that the child is a delinquent child or upon his conviction of any criminal offense.

Another problem that appears to be on the rise is passing bad checks. This offense is defined, by law, as issuing a check knowing that it will be dishonored or knowing that a person has ordered or will order a stop payment on the check. A person is presumed to know that it will be dishonored if he had no account at the bank when the check was issued or there were insufficient funds in the account when the check was presented to be cashed.

Before a charge may be filed, the court requires that a notice be sent demanding that the check be satisfied within 10 days. Passing bad checks is a first degree misdemeanor unless the check is for more than \$500.00 in which case it is a felony of the fifth degree. If it is for more than \$5000.00 it is a felony of the fourth degree.

During the holiday season we all need to be extra cautious to protect our vehicles, personal belongings and personal identifiers including social security numbers and credit card numbers from theft.