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SENATE BILL NO. 1138

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on January 28, 2003)

(Patron Prior to Substitute—Senator Stolle)

A BILL to amend and reenact §§ 18.2-23 and 18.2-105.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-108.01, relating to larceny; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-23 and 18.2-105.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-108.01 as follows:

§ 18.2-23. Conspiring to trespass or commit larceny.

A. If any person shall conspire, confederate or combine with another or others in ~~this~~*the* Commonwealth to go upon or remain upon the lands, buildings or premises of another, or any part, portion or area thereof, having knowledge that any of them have been forbidden, either orally or in writing, to do so by the owner, lessee, custodian or other person lawfully in charge thereof, or having knowledge that any of them have been forbidden to do so by a sign or signs posted on such lands, buildings, premises or part, portion or area thereof at a place or places where it or they may reasonably be seen, he shall be deemed guilty of a Class 3 misdemeanor.

B. *If any person shall conspire, confederate or combine with another or others in the Commonwealth to commit larceny or counsel, assist, aid or abet another in the performance of a larceny, where the aggregate value of the goods or merchandise involved is more than \$200, he is guilty of a felony punishable by confinement in a state correctional facility for not less than 1 year nor more than 20 years. The willful concealment of goods or merchandise of any store or other mercantile establishment, while still on the premises thereof, shall be prima facie evidence of an intent to convert and defraud the owner thereof out of the value of the goods or merchandise. A violation of this subsection constitutes a separate and distinct felony.*

C. Jurisdiction for the trial of any ~~such~~ person charged under this section shall be in the county or city wherein any part of such conspiracy is planned, or in the county or city wherein any act is done toward the consummation of such plan or conspiracy.

§ 18.2-105.2. Manufacture, sale, etc., of devices to shield against electronic detection of shoplifting prohibited; penalty.

It shall be unlawful to manufacture, sell, offer for sale, distribute or possess any specially coated or laminated bag or other device primarily designed and intended to shield shoplifted merchandise from detection by an anti-theft electronic alarm sensor, with the intention that the same be used to aid in the shoplifting of merchandise. A violation of this section shall be punishable as a Class 3 ~~1~~ misdemeanor.

§ 18.2-108.01. *Larceny with intent to sell or distribute; sale of stolen property; penalty.*

A. Any person who commits larceny of property with a value of \$200 or more with the intent to sell or distribute such property is guilty of a felony punishable by confinement in a state correctional facility for not less than 2 years nor more than 20 years. The stealing of multiple items of the same product is prima facie evidence of intent to sell or intent to distribute for sale.

B. Any person who sells, attempts to sell or possesses with intent to sell or distribute any stolen property with an aggregate value of \$200 or more where he knew or should have known that the property was stolen is guilty of a Class 5 felony.

C. A violation of this subsection constitutes a separate and distinct offense.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.