

HB0190/298679/1

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL 190
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “– Repeal”; strike beginning with “repealing” in line 3 down through “theft” in line 4 and substitute “altering requirements for certain demand letters relating to alleged acts of shoplifting or employee theft; providing that a responsible person who prevails in a certain civil action is entitled to an award of court costs and reasonable attorney’s fees, under certain circumstances; requiring a court to reduce the amount of restitution awarded in a certain criminal proceeding by an amount equal to certain damages and civil penalties; prohibiting a person from taking certain actions in recovering or attempting to recover a certain civil penalty; establishing a certain penalty for certain violations; making stylistic changes”; and strike in their entirety lines 6 through 11, inclusive, and substitute:

“BY repealing and reenacting, without amendments,

Article – Courts and Judicial Proceedings
Section 3-1301, 3-1302, 3-1304, 3-1307, and 3-1308
Annotated Code of Maryland
(2013 Replacement Volume and 2015 Supplement)

BY repealing and reenacting, with amendments,

Article – Courts and Judicial Proceedings
Section 3-1303, 3-1305, and 3-1306
Annotated Code of Maryland
(2013 Replacement Volume and 2015 Supplement)

BY adding to

Article – Courts and Judicial Proceedings
Section 3-1306.1
Annotated Code of Maryland

(Over)

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(2013 Replacement Volume and 2015 Supplement)”.

AMENDMENT NO. 2

On page 1 in lines 15 and 16, on page 2 in lines 27 and 28, on page 3 in lines 9 and 10, on page 4 in lines 23, 24, 28, and 29, and on page 5 in lines 3, 4, 9, 10, 16, 17, and 20, in each instance, strike the bracket.

On page 3, in line 18, after “letter” insert “, PREPARED BY A LAWYER ADMITTED TO PRACTICE LAW IN THE STATE,”; in line 24, after “committed” insert “, INCLUDING THE DATE AND TIME THE ACT IS ALLEGED TO HAVE OCCURRED;”

(II) SPECIFY THE BASIS ON WHICH THE RESPONSIBLE PERSON OR, IF APPLICABLE, THE CHILD OF THE RESPONSIBLE PERSON HAS BEEN ACCUSED OF THE ACT OF SHOPLIFTING OR EMPLOYEE THEFT”;

and in lines 25, 27, and 29, strike “(ii)”, “(iii)”, and “(iv)”, respectively, and substitute “(III)”, “(IV)”, and “(V)”, respectively.

On page 4, in lines 1 and 5, strike “(v)” and “(vi)”, respectively, and substitute “(VI)” and “(VII)”, respectively; in line 4, strike “and”; in line 7, after “letter” insert “; AND”

(VIII) SPECIFY THAT, IF THE RESPONSIBLE PERSON DISPUTES LIABILITY FOR THE ALLEGED ACT OF SHOPLIFTING OR EMPLOYEE THEFT:

1. THE RESPONSIBLE PERSON MAY REFUSE TO PAY THE DAMAGES AND CIVIL PENALTY; AND

2. IF THE RESPONSIBLE PERSON PREVAILS IN A CIVIL SUIT FOR DAMAGES AND PENALTIES ARISING FROM THE ALLEGED ACT OF

SHOPLIFTING OR EMPLOYEE THEFT, THE RESPONSIBLE PERSON IS ENTITLED TO AN AWARD OF COURT COSTS AND REASONABLE ATTORNEY'S FEES.

(3) IF APPLICABLE, THE MERCHANT SHALL CAUSE A COPY OF ANY POLICE REPORT CONCERNING THE ALLEGED ACT OF SHOPLIFTING OR EMPLOYEE THEFT TO BE ATTACHED TO THE INITIAL DEMAND LETTER".

On page 3 in line 21, and on page 4 in line 10, in each instance, after "address" insert "**BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED**".

On page 4, in line 9, after the second "letter" insert "**, PREPARED BY A LAWYER ADMITTED TO PRACTICE LAW IN THE STATE,**"; and in line 13, strike "(v)" and substitute "**(VIII)**".

On page 5, in line 1, after "(b)" insert "**IN A CIVIL ACTION BROUGHT UNDER THIS SUBTITLE, THE MERCHANT SHALL SUBMIT PROOF TO THE COURT THAT THE MERCHANT COMPLIED WITH ALL REQUIREMENTS UNDER § 3-1303 OF THIS SUBTITLE CONCERNING DEMAND LETTERS.**

(C)";

after line 3, insert:

(D) IF THE RESPONSIBLE PERSON PREVAILS IN A CIVIL ACTION BROUGHT UNDER THIS SUBTITLE, THE RESPONSIBLE PERSON SHALL BE ENTITLED TO AN AWARD OF COURT COSTS AND REASONABLE ATTORNEY'S FEES, TO BE ASSESSED WITHOUT REGARD TO THE ABILITY OF THE MERCHANT TO PAY.";

in line 8, strike "However, the" and substitute:

(Over)

“(C) THE”;

after line 9, insert:

“(D) A COURT SHALL REDUCE THE AMOUNT OF ANY RESTITUTION AWARDED IN A CRIMINAL PROCEEDING REGARDING AN ACT FOR WHICH A RESPONSIBLE PERSON HAS PAID DAMAGES AND CIVIL PENALTIES UNDER THIS SUBTITLE BY AN AMOUNT EQUAL TO THOSE DAMAGES AND CIVIL PENALTIES.

3-1306.1.

(A) IN RECOVERING OR ATTEMPTING TO RECOVER DAMAGES OR A CIVIL PENALTY ARISING FROM AN ALLEGED ACT OF SHOPLIFTING OR EMPLOYEE THEFT UNDER THIS SUBTITLE, A PERSON MAY NOT:

(1) USE OR THREATEN FORCE OR VIOLENCE;

(2) COMMUNICATE WITH A RESPONSIBLE PERSON, IN A MANNER THAT REASONABLY CAN BE EXPECTED TO ABUSE OR HARASS THE RESPONSIBLE PERSON, INCLUDING COMMUNICATING WITH EXCESSIVE FREQUENCY OR AT UNUSUAL HOURS;

(3) USE OBSCENE OR GROSSLY ABUSIVE LANGUAGE IN COMMUNICATING WITH THE RESPONSIBLE PERSON;

(4) CLAIM, ATTEMPT, OR THREATEN TO ENFORCE A RIGHT WITH KNOWLEDGE THAT THE RIGHT DOES NOT EXIST; OR

(5) USE A COMMUNICATION THAT SIMULATES LEGAL OR JUDICIAL PROCESS OR GIVES THE APPEARANCE OF BEING AUTHORIZED, ISSUED, OR

APPROVED BY A GOVERNMENT, GOVERNMENTAL AGENCY, OR LAWYER WHEN IT IS NOT.

(B) A PERSON WHO VIOLATES THIS SECTION IS LIABLE FOR:

(1) ANY ACTUAL DAMAGES PROXIMATELY CAUSED BY THE VIOLATION; AND

(2) REASONABLE COURT COSTS AND ATTORNEY'S FEES."