

SB0508/368978/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 508
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, after “Ramirez” insert “, Norman,”; 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

(Over)

**SB0508/368978/1 Judicial Proceedings Committee
Amendments to SB 508
Page 2 of 5**

Annotated Code of Maryland
(2013 Replacement Volume and 2015 Supplement)”.

AMENDMENT NO. 2

On page 1 in lines 15 and 16, on page 2 in lines 23 and 24, on page 3 in lines 3 and 4, on page 4 in lines 16, 17, 21, 22, 30, and 31, and on page 5 in lines 3, 4, 10, 11, and 14, in each instance, strike the bracket.

AMENDMENT NO. 3

On page 3, in line 12, after “letter” insert “, PREPARED BY A LAWYER ADMITTED TO PRACTICE LAW IN THE STATE,”; in line 18, 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”;

in lines 19, 21, 23, 25, and 29, strike “(ii)”, “(iii)”, “(iv)”, “(v)”, and “(vi)”, respectively, and substitute “(III)”, “(IV)”, “(V)”, “(VI)”, and “(VII)”, respectively; in line 28, strike “and”; in line 31, 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”;

and after line 31, insert:

“(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 15, and on page 4 in line 3, in each instance, after “address” insert “BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED”.

On page 4, in line 2, after the second “letter” insert “, PREPARED BY A LAWYER ADMITTED TO PRACTICE LAW IN THE STATE,”; in line 6, strike “(v)” and substitute “(VIII)”; in line 28, 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)”;

and after line 30, 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.”.

On page 5, in line 2, strike “However, the” and substitute:

(Over)

“(C) THE”;

and after line 3, 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.”.

AMENDMENT NO. 4

On page 5, before line 4, insert:

“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 ANY DAMAGES PROXIMATELY CAUSED BY THE VIOLATION, INCLUDING DAMAGES FOR EMOTIONAL DISTRESS OR MENTAL ANGUISH SUFFERED WITH OR WITHOUT ACCOMPANYING PHYSICAL INJURY.”.