HLS 18RS-487 REENGROSSED

2018 Regular Session

HOUSE BILL NO. 131

BY REPRESENTATIVE STEFANSKI

CRIME/THEFT: Provides relative to theft prevention programs

1 AN ACT 2 To amend and reenact Code of Criminal Procedure Article 215(C) and R.S. 14:66(A)(2) and 3 to enact Code of Criminal Procedure Article 215(A)(3), relative to theft of goods; to 4 provide relative to theft prevention programs; to prohibit the exclusion of 5 participants based upon certain factors; to provide relative to a fee; to provide 6 relative to certain requirements of the program; to provide definitions; and to provide 7 for related matters. 8 Be it enacted by the Legislature of Louisiana: 9 Section 1. Code of Criminal Procedure Article 215(C) is hereby amended and 10 reenacted and Code of Criminal Procedure Article 215(A)(3) is hereby enacted to read as 11 follows: 12 Art. 215. Detention and arrest of shoplifters 13 A. 14 15 (3)(a) A merchant or a specifically authorized employee or agent of a 16 merchant who has reasonable cause to believe that a person has committed a theft of 17 goods held for sale by the merchant, is not precluded from offering such person the 18 opportunity to complete a theft prevention program in lieu of reporting the suspected 19 theft to law enforcement. The provisions of this Subparagraph apply only to those 20 merchants who employ at least twenty-five persons.

Page 1 of 4

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(b)(i) A provider of a theft prevention program may charge a fee of not more
2	than five hundred dollars for participation in the program and may not exclude a
3	person otherwise eligible to participate in the program on the basis of the person's
4	race, national origin, religion, sex, or the ability to pay the fee.
5	(ii) A provider of a theft prevention program that charges a fee to participate
6	in the program may reduce or waive the fee based upon the inability of a participant
7	to pay.
8	(c) The participant shall not be required to sign an admission of guilt nor
9	sign any binding agreement in connection with participation in the theft prevention
10	program.
11	* * *
12	C. As used in this Article, the following definitions apply:
13	(1) "reasonable Reasonable under the circumstances" shall be construed in
14	such a manner so as to include the value of the merchandise in question, the location
15	of the store, the length of time taken for law enforcement personnel to respond, the
16	cooperation of the person detained, and any other relevant circumstances to be
17	considered with respect to the length of time a person is detained.
18	(2) "Theft prevention program" is a pre-arrest program designed to address
19	the underlying causes of theft, reduce the occurrences of theft, and promote
20	accountability and reconciliation between the person suspected of theft and the
21	merchant, and may be provided by the merchant or an independent third-party
22	provider.
23	Section 2. R.S. 14:66(A)(2) is hereby amended and reenacted to read as follows:
24	§66. Extortion
25	A. Extortion is the communication of threats to another with the intention
26	thereby to obtain anything of value or any acquittance, advantage, or immunity of
27	any description. Any one of the following kinds of threats shall be sufficient to
28	constitute extortion:
29	* * *

1 (2) A threat to accuse the individual threatened or any member of his family
2 or any other person held dear to him of any crime. An offer to participate in a theft
3 prevention program pursuant to Code of Criminal Procedure Article 215 shall not
4 constitute a violation of the provisions of this Paragraph.
5 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 131 Reengrossed

2018 Regular Session

Stefanski

Abstract: Provides for pre-arrest theft prevention programs as an alternative to reporting a shoplifting offense to law enforcement.

<u>Present law</u> authorizes law enforcement officials and merchants to detain a person suspected of committing a theft of goods held for sale by the merchant (commonly referred to as "shoplifting").

<u>Proposed law</u> retains <u>present law</u> and also provides that a merchant who employs at least 25 persons, or an authorized agent or employee of a merchant who employs at least 25 persons, is not precluded from offering a person suspected of theft the opportunity to complete a prearrest theft prevention program in lieu of reporting the offense to law enforcement.

<u>Proposed law</u> authorizes a provider of a theft prevention program to charge a fee of not more than \$500 for participation in the program and prohibits the exclusion of a person otherwise eligible to participate on the basis of the person's race, national origin, religion, sex, or the ability to pay the fee. Further provides that a provider that charges a fee to participate in the program may reduce or waive the fee based upon the inability of a participant to pay. Provides that the participant in the program shall not be required to sign an admission of guilt nor sign any binding agreement in connection with participation in the program.

<u>Present law</u> provides that one element of the crime of extortion is the communication of a threat to accuse another of a crime with the intention to obtain anything of value or any acquittance, advantage, or immunity of any description.

<u>Proposed law</u> retains <u>present law</u> but provides that an offer by a merchant to a person suspected of a theft of goods to participate in a theft prevention program is not a violation of the present law crime of extortion.

(Amends C.Cr.P. Art. 215(C) and R.S. 14:66(A)(2); Adds C.Cr.P. Art. 215(A)(3))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by <u>House Committee on Administration of Criminal Justice</u> to the <u>original</u> bill:

1. Add that a participant in the program shall not be required to sign an admission of guilt nor sign any binding agreement in connection with participation in the program.

Page 3 of 4

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The House Floor Amendments to the engrossed bill:

- 1. Specify that the <u>proposed law</u> authority to offer a person suspected of theft the opportunity to complete a pre-arrest theft prevention program in lieu of reporting the offense to law enforcement applies only to a merchant, or an authorized agent or employee of a merchant, who employs at least 25 persons.
- 2. Provide that the fee to participate in the program shall not exceed \$500.
- 3. Specify that the <u>proposed law</u> theft prevention program is a pre-arrest program.