

**RETAIL THEFT LOSS PREVENTION OFFICERS**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mark A. Wheatley**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies the Criminal Code regarding enforcement of shoplifting laws.

**Highlighted Provisions:**

This bill:

- ▶ allows a law enforcement agency to appoint volunteers to issue citations for shoplifting and for use of theft detection shielding devices;
- ▶ requires that the law enforcement agency provide a training program and that the volunteer complete the program; and
- ▶ allows a retail establishment merchant to detain an individual suspected of shoplifting in order to inform a volunteer authorized to issue a citation.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**76-6-603**, as last amended by Laws of Utah 2007, Chapter 306

**77-7-18**, as last amended by Laws of Utah 2012, Chapter 322

**77-7-20**, as last amended by Laws of Utah 2013, Chapter 65

ENACTS:



28 76-6-602.5, Utah Code Annotated 1953



30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **76-6-602.5** is enacted to read:

32 **76-6-602.5. Citations issued by volunteers -- Requirements.**

33 (1) Any law enforcement agency in this state may appoint volunteers to issue citations  
34 for violations of:

35 (a) the provisions of Section [76-6-602](#), regarding retail theft; and

36 (b) the provisions of Section [76-6-608](#), regarding theft detection shielding devices.

37 (2) A volunteer appointed under this section shall be at least 21 years of age.

38 (3) The law enforcement agency appointing a volunteer:

39 (a) shall establish a training program regarding issuing of citations under this section;

40 and

41 (b) may establish additional volunteer qualifications that the agency finds reasonable  
42 and necessary.

43 (4) A volunteer may not issue citations under this section until the volunteer has  
44 satisfactorily completed the training program established under Subsection (3)(a) and is  
45 appointed under this section.

46 (5) A citation issued by a volunteer under this section has the same effect as a citation  
47 issued by a peace officer for the same offense.

48 Section 2. Section **76-6-603** is amended to read:

49 **76-6-603. Detention of suspected violator by merchant -- Purposes.**

50 (1) Any merchant who has probable cause to believe that ~~[a person]~~ an individual has  
51 committed retail theft may detain ~~[such person]~~ the individual, on or off the premises of a retail  
52 mercantile establishment, in a reasonable manner and for a reasonable length of time ~~[for all or~~  
53 ~~any of the following purposes]~~ to:

54 (a) ~~[to]~~ make reasonable inquiry as to whether ~~[such person has in his possession]~~ the  
55 individual has possession of any unpurchased merchandise and to make reasonable  
56 investigation of the ownership of [such] the merchandise;

57 (b) ~~[to]~~ request identification;

58 (c) ~~[to verify such]~~ determine the validity of the identification;

59 (d) ~~[to]~~ make a reasonable request of ~~[such person]~~ the individual to place or keep in  
 60 full view any merchandise ~~[such]~~ the individual may have removed, or which the merchant has  
 61 reason to believe ~~[he]~~ the individual may have removed, from its place of display or elsewhere,  
 62 whether for examination, purchase, or for any other reasonable purpose;

63 (e) ~~[to]~~ inform a peace officer of the detention of the person and surrender that person  
 64 to the custody of a peace officer;

65 (f) inform a volunteer authorized to issue a citation under Section 76-6-602.5; or  
 66 ~~[(f)]~~ (g) in the case of a minor, ~~[to]~~ inform a peace officer, the parents, guardian, or  
 67 other private person interested in the welfare of that minor immediately, if possible, of this  
 68 detention and to surrender custody of ~~[such]~~ the minor to ~~[such]~~ the person.

69 (2) A merchant may make a detention ~~[as permitted herein]~~ under this section while off  
 70 the premises of a retail mercantile establishment only if ~~[such]~~ the detention is pursuant to an  
 71 immediate pursuit of ~~[such]~~ the person.

72 Section 3. Section 77-7-18 is amended to read:

73 **77-7-18. Citation on misdemeanor or infraction charge.**

74 Any person subject to arrest or prosecution on a misdemeanor or infraction charge may  
 75 be issued and delivered a citation that requires the person to appear at the court of the  
 76 magistrate with territorial jurisdiction. The citation may be issued by:

- 77 (1) a peace officer, in lieu of or in addition to taking the person into custody;  
 78 (2) any public official of any county or municipality charged with the enforcement of  
 79 the law;  
 80 (3) a port-of-entry agent as defined in Section 72-1-102;  
 81 (4) an animal control officer of a special service district under Title 17D, Chapter 1,  
 82 Special Service District Act, who is authorized to provide animal control service; ~~[and]~~  
 83 (5) a volunteer authorized to issue a citation under Section 41-6a-213[-]; and  
 84 (6) a volunteer authorized to issue a citation under Section 76-6-602.5.

85 Section 4. Section 77-7-20 is amended to read:

86 **77-7-20. Service of citation on defendant -- Filing in court -- Electronic filing --**  
 87 **Contents of citations.**

88 (1) A peace officer ~~[or]~~, public official, or other authorized person who issues a  
 89 citation pursuant to Section 77-7-18 shall give the citation to the person cited and shall within

90 five days electronically file the data from Subsections (2)(a) through (2)(g) with the court  
91 specified in the citation. The data transmission shall use the court's electronic filing interface.

92 A nonconforming filing is not effective.

93 (2) The citation issued under authority of this chapter shall contain the following data:

94 (a) the name of the court before which the person is to appear;

95 (b) the name of the person cited;

96 (c) a brief description of the offense charged;

97 (d) the date, time, and place at which the offense is alleged to have occurred;

98 (e) the date on which the citation was issued;

99 (f) the name of the peace officer or public official who issued the citation, and the  
100 name of the arresting person if an arrest was made by a private party and the citation was  
101 issued in lieu of taking the arrested person before a magistrate;

102 (g) the time and date on or before and after which the person is to appear or a statement  
103 that the court will notify the person of the time to appear;

104 (h) the address of the court in which the person is to appear; and

105 (i) a notice containing substantially the following language:

106 **READ CAREFULLY**

107 This citation is not an information and will not be used as an information without your  
108 consent. If an information is filed you will be provided a copy by the court. You **MUST**  
109 appear in court on or before the time set in this citation or as directed by the court. **IF YOU**  
110 **FAIL TO APPEAR, THE COURT MAY ISSUE A WARRANT FOR YOUR ARREST.**

111 (3) By electronically filing the data with the court, the peace officer or public official  
112 certifies to the court that:

113 (a) the citation or information, including the summons and complaint, was served upon  
114 the defendant in accordance with the law;

115 (b) the defendant committed the offense set forth in the served documents; and

116 (c) the court to which the defendant was directed to appear is the proper court pursuant  
117 to Section [77-7-21](#).

**Legislative Review Note**  
as of 1-15-14 11:20 AM

**Office of Legislative Research and General Counsel**