

2018 -- H 7539

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO CRIMINAL OFFENSES -- DISORDERLY CONDUCT

Introduced By: Representatives Barros, Tobon, and Regunberg

Date Introduced: February 09, 2018

Referred To: House Judiciary

(Public Defender)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-45-1 of the General Laws in Chapter 11-45 entitled "Disorderly
2 Conduct" is hereby amended to read as follows:

3 **11-45-1. Disorderly conduct.**

4 (a) A person commits disorderly conduct if he or she intentionally, knowingly, or
5 recklessly:

6 (1) Engages in fighting or threatening, or in violent or tumultuous behavior;

7 (2) In a public place or near a private residence that he or she has no right to occupy,
8 disturbs another person by making loud and unreasonable noise which under the circumstances
9 would disturb a person of average sensibilities;

10 (3) Directs at another person in a public place offensive words which are likely to
11 provoke a violent reaction on the part of the average person so addressed;

12 (4) Alone or with others, obstructs a highway, street, sidewalk, railway, waterway,
13 building entrance, elevator, aisle, stairway, or hallway to which the public or a substantial group
14 of the public has access or any other place ordinarily used for the passage of persons, vehicles, or
15 conveyances;

16 (5) Engages in conduct which obstructs or interferes physically with a lawful meeting,
17 procession, or gathering;

18 (6) Enters upon the property of another and for a lascivious purpose looks into an
19 occupied dwelling or other building on the property through a window or other opening; or

1 (7) Who without the knowledge or consent of the individual, looks for a lascivious
2 purpose through a window, or any other opening into an area in which another would have a
3 reasonable expectation of privacy, including, but not limited to, a restroom, locker room, shower,
4 changing room, dressing room, bedroom, or any other such private area, notwithstanding any
5 property rights the individual may have in the location in which the private area is located.

6 (8) [Deleted by P.L. 2008, ch. 183, § 1].

7 (b) Any person, including a police officer, may be a complainant for the purposes of
8 instituting action for any violation of this section.

9 (c) Any person found guilty of the crime of disorderly conduct, pursuant to subsections
10 (a)(6) or (a)(7) of this section or, any other subsection when the provisions of the domestic
11 violence prevention act, chapter 29 of title 12 are applicable, shall be imprisoned for a term of not
12 more than six (6) months, or fined not more than five hundred dollars (\$500), or both. Any person
13 found guilty of the crime of disorderly conduct pursuant to subsections (a)(1) through (a)(5) of
14 this section shall be fined no more than five hundred dollars (\$500).

15 (d) In no event shall subdivisions (a)(2) -- (5) of this section be construed to prevent
16 lawful picketing or lawful demonstrations including, but not limited to, those relating to a labor
17 dispute.

18 SECTION 2. Section 11-44-26 of the General Laws in Chapter 11-44 entitled "Trespass
19 and Vandalism" is hereby amended to read as follows:

20 **11-44-26. Willful trespass -- Remaining on land after warning -- Exemption for**
21 **tenants holding over.**

22 (a) Every person who willfully trespasses or, having no legitimate purpose for his or her
23 presence, remains upon the land of another or upon the premises or curtilage of the domicile of
24 any person legally entitled to the possession of that domicile, after having been forbidden to do so
25 by the owner of the land or the owner's duly authorized agent or a person legally entitled to the
26 possession of the premises, shall be punished for a first or second conviction by a fine not
27 exceeding five hundred dollars (\$500) and for a third or subsequent conviction by a fine not
28 exceeding one thousand dollars (\$1,000), or imprisonment for a term not exceeding one year, or
29 both.

30 (b) This section shall not apply to tenants or occupants of residential premises who,
31 having rightfully entered the premises at the commencement of the tenancy or occupancy, remain
32 after that tenancy or occupancy has been or is alleged to have been terminated. The owner or
33 landlord of the premises may recover possession only through appropriate civil proceedings.

34 (c) Where the provisions of The Domestic Violence Prevention Act, chapter 29 of title

1 12, are applicable, the penalties for violation of this section shall also include the penalties as
2 provided in § 12-29-5.

3 SECTION 3. Section 11-41-20 of the General Laws in Chapter 11-41 entitled "Theft,
4 Embezzlement, False Pretenses, and Misappropriation" is hereby amended to read as follows:

5 **11-41-20. Shoplifting.**

6 (a) For the purpose of this section:

7 (1) "Conceal" means to place merchandise in such a manner that it is not visible through
8 ordinary observation.

9 (2) "Full retail value" means the merchant's stated price of the merchandise.

10 (3) "Merchandise" means any items of tangible personal property offered for sale within a
11 retail mercantile establishment.

12 (4) "Merchant" means an owner or operator of any retail mercantile establishment or any
13 agent, employee, lessee, officer, or director of the owner or operator.

14 (5) "Premises of a retail mercantile establishment" includes the retail mercantile
15 establishment, and common use areas in shopping centers, and all parking areas set aside by a
16 merchant or on behalf of a merchant for the parking of vehicles for the convenience of the patrons
17 of the retail mercantile establishment.

18 (6) "Retail mercantile establishment" means any place where merchandise is displayed,
19 held, stored or offered for sale to the public.

20 (7) "Shopping cart" means those push carts of the type or types which are commonly
21 provided by grocery stores, drug stores, or other retail mercantile establishments for the use of the
22 public in transporting commodities on or from the premises of the retail mercantile establishment.

23 (b) Whoever shall engage in the following shall be guilty of the crime of shoplifting:

24 (1) Take possession of, carry away, transfer or cause to be carried away or transferred
25 any merchandise displayed, held, stored, or offered for sale by a retail mercantile establishment
26 with the intention of depriving the merchant of all or any part of the full retail value of the
27 merchandise;

28 (2) Alter, transfer, or remove a label, price tag, marking, indicia of value or any other
29 markings which aid in determining value affixed to any merchandise displayed, held, stored or
30 offered for sale in a retail mercantile establishment and attempt to purchase or purchase the
31 merchandise personally or in consort with another at less than the full retail value with the
32 intention of depriving the merchant of all or any part of the full retail value of such merchandise;

33 (3) Transfer any merchandise displayed, held, stored or offered for sale in a retail
34 mercantile establishment from one container to another in an attempt to purchase or purchase the

1 merchandise personally or in consort with another at less than the full retail value with the
2 intention of depriving the merchant of all or any part of the full retail value of the merchandise; or

3 (4) Remove a shopping cart from the premises of a retail mercantile establishment
4 without the consent of the merchant given at the time of the removal with the intention of
5 depriving the merchant of the possession, use, or benefit of the cart.

6 (c) The fact that a person conceals upon his person, among his or her belongings, or upon
7 the person or among the belongings of another merchandise displayed, held, stored or offered for
8 sale in a retail mercantile establishment, for which he or she has not paid the full retail value, and
9 the merchandise has been taken beyond the area within the retail mercantile establishment where
10 payment for it is to be made, shall be prima facie evidence that the person has possessed, carried
11 away, or transferred the merchandise with the intention of depriving the merchant of all or part of
12 the full retail value of the merchandise without paying the full retail value of the merchandise.

13 (d) Any person convicted of the crime of shoplifting, first offense, shall be guilty of a
14 ~~misdemeanor violation~~ and shall be punished by a fine of not less than fifty dollars (\$50.00) or
15 two times the full retail value of the merchandise, whichever is greater, but not more than five
16 hundred dollars (\$500), ~~or by imprisonment for not more than one year, or both~~; provided, that
17 any person convicted of the crime of shoplifting, second offense, shall be guilty of a
18 misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or two
19 (2) times the retail value of the merchandise, whichever is greater, but not more than one
20 thousand dollars (\$1000); provided, further, that any person convicted of the crime of shoplifting
21 merchandise with a retail value of over one hundred dollars (\$100) who has previously been
22 convicted of shoplifting shall be guilty of a felony and shall be punished by a fine of not more
23 than five thousand dollars (\$5,000), or by imprisonment of not more than five (5) years, or both.

24 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL OFFENSES -- DISORDERLY CONDUCT

1 This act would amend the penalty provisions for disorderly conduct that provide the
2 possibility of incarceration, with certain exceptions, and make the offense punishable by a fine of
3 up to five hundred dollars (\$500). It would also amend the penalty provisions for willful trespass
4 and would make a first or second offense punishable by a fine not exceeding five hundred dollars
5 (\$500). This act would also amend the penalty provisions for shoplifting and would make a first
6 or second offense a civil violation punishable by fines only.

7 This act would take effect upon passage.

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