

IC 35-33-6

Chapter 6. Detention of Shoplifters by Owner or Agent

IC 35-33-6-1

Definitions

Sec. 1. As used in this chapter:

"Adult employee" means an employee who is eighteen (18) years old or older.

"Agent" means an operator, a manager, an adult employee, or a security agent employed by a store.

"Motion picture exhibition facility" has the meaning set forth in IC 35-46-8-3.

"Security agent" means a person who has been employed by a store to prevent the loss of property due to theft.

"Store" means a place of business where property or service with respect to property is displayed, rented, sold, or offered for sale.

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.94-2005, SEC.1.

IC 35-33-6-2

Probable cause; detention; procedure; statements by juveniles

Sec. 2. (a) An owner or agent of a store who has probable cause to believe that a theft has occurred or is occurring on or about the store and who has probable cause to believe that a specific person has committed or is committing the theft:

(1) may:

(A) detain the person and request the person to identify himself or herself;

(B) verify the identification;

(C) determine whether the person has in the person's possession unpurchased merchandise taken from the store;

(D) inform the appropriate law enforcement officers; and

(E) inform the person's parents or others interested in the person's welfare that the person has been detained; but

(2) shall not ask the person to make a statement that acknowledges that the person committed the theft or conversion or waives any of the person's legal rights if:

(A) the person is less than eighteen (18) years of age; and

(B) the person has not been afforded an opportunity to have a meaningful consultation with his or her parent, guardian, custodian, or guardian ad litem.

(b) A statement acknowledging that a child committed theft or conversion in violation of subdivision (a)(2) cannot be admitted as evidence against the child on the issue of whether the child committed a delinquent act or a crime.

(c) The detention must:

(1) be reasonable and last only for a reasonable time; and

(2) not extend beyond the arrival of a law enforcement officer or two (2) hours, whichever first occurs.

As added by Acts 1981, P.L.298, SEC.2. Amended by Acts 1982,

P.L.204, SEC.11; P.L.77-2009, SEC.6.

IC 35-33-6-2.5

Detention of person making unlawful recording

Sec. 2.5. (a) An owner or agent of a motion picture exhibition facility who has probable cause to believe that an unlawful recording under IC 35-46-8 has occurred or is occurring in the motion picture exhibition facility and who has probable cause to believe that a specific person has committed or is committing the unlawful recording may:

- (1) detain the person and request the person to provide identification;
- (2) verify the identification;
- (3) determine whether the person possesses at the time of detention an audiovisual recording device (as defined in IC 35-46-8-2);
- (4) confiscate any unauthorized copies of a motion picture or another audiovisual work; and
- (5) inform the appropriate law enforcement officer or agency that the person is being detained.

(b) Detention under subsection (a):

(1) must:

(A) be reasonable; and

(B) last only for a reasonable time; and

(2) may not extend beyond the arrival of a law enforcement officer or two (2) hours, whichever occurs first.

As added by P.L.94-2005, SEC.2.

IC 35-33-6-3

Placement of information before law enforcement officer; presumption

Sec. 3. An owner or agent of a store or motion picture exhibition facility who informs a law enforcement officer of the circumstantial basis for detention and any additional relevant facts shall be presumed to be placing information before the law enforcement officer. The placing of this information does not constitute a charge of crime.

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.94-2005, SEC.3.

IC 35-33-6-4

Civil or criminal actions; exclusion of lawful detention; burden of proof

Sec. 4. A civil or criminal action against:

- (1) an owner or agent of a store or motion picture exhibition facility; or
- (2) a law enforcement officer;

may not be based on a detention that was lawful under section 2 or 2.5 of this chapter. However, the defendant has the burden of proof that the defendant acted with probable cause under section 2 or 2.5

of this chapter.

As added by Acts 1981, P.L.298, SEC.2. Amended by P.L.94-2005, SEC.4.

IC 35-33-6-5

Reliance on information from employee; probable cause

Sec. 5. An owner or agent of a store may act in the manner permitted by section 2 of this chapter on information received from any employee of the store, if that employee has probable cause to believe that a:

- (1) theft has occurred or is occurring in or about the store; and
- (2) specific person has committed or is committing the theft.

As added by Acts 1981, P.L.298, SEC.2.

IC 35-33-6-6

Reliance on information from employee of motion picture exhibition facility

Sec. 6. An owner or agent of a motion picture exhibition facility may act in the manner allowed by section 2.5 of this chapter on information received from an employee of the motion picture exhibition facility if the employee has probable cause to believe that:

- (1) an unlawful recording under IC 35-46-8 has occurred or is occurring in the motion picture exhibition facility; and
- (2) a specific person has committed or is committing the unlawful recording.

As added by P.L.94-2005, SEC.5.