




I MINA' BENTE NUEBI NA LIHESLATURAN GUÅHAN  
2007 (FIRST) Regular Session

Bill No. 186 (EC)

Introduced by:

Ray Tenorio   
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A.B. Palacios, Sr. 

AN ACT TO ADD A NEW §43.95 TO CHAPTER 43 OF  
TITLE 9, GUAM CODE ANNOTATED RELATIVE TO  
UNLAWFUL USE OF THEFT DETECTION SHIELDING  
OR DEACTIVATION DEVICES

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1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

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3 **Section 1.** A new Section 43.95 is hereby *added* to 9GCA to read:

4 **“§43.95. Unlawful Use of Theft Detection Shielding or Deactivation Devices.** This  
5 Section defines and penalizes the distribution or possession of a detection shielding  
6 device, or any tool or device designed to remove a theft detection device from  
7 merchandise prior to purchase, for the intent to commit (or aid or abet) theft. A person  
8 who activates an anti-shoplifting device may be lawfully detained in a reasonable  
9 manner for a reasonable period of time.

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11 (a) A person is guilty of unlawful distribution of a theft detection shielding device when  
12 he knowingly manufactures, sells, offers for sale or distributes in any way laminated or  
13 coated bag intended to shield merchandise from detection by an electronic or magnetic  
14 theft detector.

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16 (b). A person is guilty of unlawful possession of a theft detection shielding device when

1 he knowingly possesses any laminated or coated bag or device intended to shield  
2 merchandise from detection by an electronic or magnetic theft detector, with the intent  
3 to commit (or aid or abet) theft.

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5 (c) A person is guilty of unlawful possession of a theft detection device deactivator or  
6 remover when he knowingly possesses any tool or device designed to allow, or capable  
7 of allowing, the deactivation, or removal from any merchandise, of any theft detection  
8 device, with the intent to use such tool or device to deactivate any theft detection device  
9 on, or to remove any theft detection device from, any merchandise without the  
10 permission of the merchant or person owning or lawfully holding said merchandise.

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12 (d) A person is guilty of unlawful distribution of a theft detection device deactivator or  
13 remover when he knowingly manufacturers, sells, offers for sale or distributes in any  
14 way tool or device designed to allow, or capable of allowing, the deactivation, or  
15 removal from any merchandise, of any theft detection device without the permission of  
16 the merchant or person owning or lawfully holding said merchandise.

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18 (e) A person is guilty of unlawful deactivation or removal of a theft detection device  
19 when he intentionally deactivates in a retail establishment a theft detection device on,  
20 or removes a theft detection device from, merchandise prior to purchase.

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22 (f) Any person convicted for violating the provisions of Subsections (a), (b), (c), (c) or  
23 (d) of this Section where the value of the merchandise is *less* than Five Hundered  
24 Dollars (\$500) is guilty of a petty misdemeanor. Any person convicted for violating the  
25 provisions of Subsections (a), (b), (c), (c) or (d) of this Section where the value of the  
26 merchandise is *more* than Five Hundered Dollars (\$500) is guilty of a misdemeanor.

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1 (g). The activation of an anti-shoplifting or inventory control device as a result of a  
2 person exiting the establishment or a protected security device within the area within  
3 the establishment shall constitute reasonable cause for the detention of the person so  
4 exiting by the owner or operator of the establishment or by an agent or employee of the  
5 owner or operator, provided notice has been posted to advise the patrons that the  
6 establishment utilizes anti-shoplifting or inventory control devices. Each such detention  
7 shall be made only in a reasonable manner and only for a reasonable period of time  
8 sufficient for any inquiry into the circumstances surrounding the activation of the  
9 device or for the recovery of goods.

10  
11 (h) Such taking into custody and detention by a law enforcement officer, security  
12 officer, merchant, merchant's employee or agent, if done in compliance with all the  
13 requirements of the foregoing subsection, shall not render such law enforcement  
14 officer, security officer, merchant, merchant's employee or agent, criminally or civilly  
15 liable, including any liability for false arrest, false imprisonment, unlawful detention,  
16 malicious prosecution, intentional infliction of emotional distress or defamation.”

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18 **Section 2. Renumbering of Section.** The Compiler of Laws shall renumber the  
19 Severability Clause contained in §43.95 of Chapter 43 of 9GCA as existing prior to the  
20 enactment hereof.