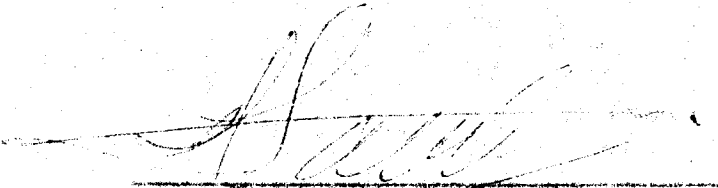


FIFTEENTH GUAM LEGISLATURE
1980 (SECOND) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 62, "An Act to add Section 22.35 and Article 2 to Chapter 43 of the Criminal and Correctional Code relative to unlawful restraint and defining retail theft and providing punishment therefor", was on the 12th day of March 1980, duly and regularly passed.



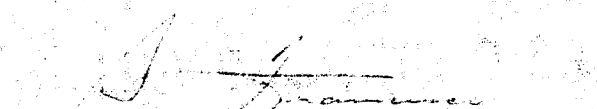
THOMAS V. C. TANAKA
Speaker

ATTESTED:



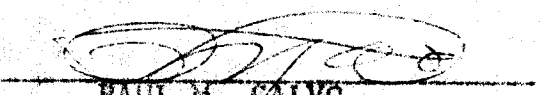
JAMES H. UNDERWOOD
Legislative Secretary

This Act was received by the Governor this 18th day of March, 1980, at 4:15 o'clock P.M.



SHERRA L. FRANCISCO
Assistant Staff Officer
Governor's Staff

APPROVED:



PAUL M. CALVO
Governor of Guam

DATED: 3/28/80 3:20 p.m.
P.L. 15-116

FIFTEENTH GUAM LEGISLATURE
1980 (SECOND) Regular Session

Bill No. 62
(As Substituted)

Introduced by J. H. Underwood

AN ACT TO ADD SECTION 22.35 AND ARTICLE
2 TO CHAPTER 43 OF THE CRIMINAL AND
CORRECTIONAL CODE RELATIVE TO UNLAWFUL
RESTRAINT AND DEFINING RETAIL THEFT AND
PROVIDING PUNISHMENT THEREFOR.

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

2 Section 1. Section 22.35 is added to the Criminal and
3 Correctional Code to read:

4 "Section 22.35. (a) A person commits the offense of
5 unlawful restraint when he knowingly, without legal
6 authority, detains another.

7 (b) Unlawful restraint, punishment for. Unlawful
8 restraint is a misdemeanor."

9 Section 2. Article 2 is added to Chapter 43 of the
10 Criminal and Correctional Code to read:

11 "ARTICLE 2
12 Retail Theft

13 Section 43.80. Definitions. For the purposes of this
14 Article, the words and phrases defined in Sections 43.82
15 through 43.92 have the meanings ascribed to them in those
16 sections unless a contrary meaning is clear from the
17 context.

18 Section 43.81. To 'conceal' merchandise means that
19 although there may be some notice of its presence, that
20 merchandise is not visible through ordinary observation.

21 Section 43.82. 'Full retail value' means the
22 merchant's stated or advertised price of the merchandise.

1 Section 43.83. 'Merchandise' means any item of
2 tangible personal property.

3 Section 43.84. 'Merchant' means an owner or operator
4 of any retail mercantile establishment or any agent,
5 employee, lessee, consignee, officer, director, franchise
6 or independent contractor of such owner or operator.

7 Section 43.85. 'Minor' means a person who is less
8 than eighteen (18) years of age, is unemancipated and
9 resides with his parents or legal guardian.

10 Section 43.86. 'Person' means any natural person or
11 individual.

12 Section 43.87. 'Peace Officer' has the meaning
13 ascribed to that term in Section 5.55 of the Criminal
14 Procedure Code.

15 Section 43.88. 'Premises of a retail mercantile
16 establishment' includes, but is not limited to, the retail
17 mercantile establishment; any common use areas in shopping
18 centers and all parking areas set aside by a merchant or
19 on behalf of a merchant for the parking of vehicles for
20 the convenience of the patrons of such retail mercantile
21 establishment.

22 Section 43.89. 'Shopping cart' means those push
23 carts of the type or types which are commonly provided by
24 grocery stores, drug stores or other retail mercantile
25 establishments for the use of the public in transporting
26 commodities in stores and markets and, incidentally, from
27 the stores to a place outside the store.

28 Section 43.90. 'Under-ring' means to cause the cash
29 register or other sales recording device to reflect less
30 than the full retail value of the merchandise.

1 Section 43.91. A person is guilty of theft if he
2 knowingly:

3 (a) takes possession of, carries away,
4 transfers or causes to be carried away or transferred,
5 any merchandise displayed, held, stored or offered
6 for sale in a retail mercantile establishment with
7 the intention of retaining such merchandise or with
8 the intention of depriving the merchant permanently
9 of the possession, use or benefit of such
10 merchandise without paying the full retail value
11 of such merchandise;

12 (b) alters, transfers, or removes any label,
13 price tag, marking, indicia of value or any other
14 markings which aid in determining value affixed to
15 any merchandise displayed, held, stored or offered
16 for sale in a retail mercantile establishment with
17 the intention of depriving the merchant of the full
18 retail value of such value of merchandise;

19 (c) transfers any merchandise displayed, held,
20 stored or offered for sale in a retail mercantile
21 establishment from the container in or on which such
22 merchandise is displayed to any other container with
23 the intention of depriving the merchant of the full
24 retail value of such merchandise;

25 (d) under-rings with the intention of depriving
26 the merchant of the full retail value of the
27 merchandise; or

28 (e) removes a shopping cart from the premises
29 of a retail mercantile establishment without the
30 consent of the merchant given at the time of such
31 removal.

1 Section 43.92. Presumptions. If any person:

2 (a) conceals upon his person or among his
3 belongings, unpurchased merchandise displayed, held,
4 stored or offered for sale in a retail mercantile
5 establishment; and

6 (b) removes that merchandise beyond the last
7 station for receiving payments for that merchandise
8 in that retail mercantile establishment, such person
9 shall be presumed to have possessed, carried away or
10 transferred such merchandise with the intention of
11 retaining it or with the intention of depriving the
12 merchant permanently of the possession, use or benefit
13 of such merchandise without paying the full retail
14 value of such merchandise.

15 Section 43.93. Detention. Any merchant who has
16 reasonable grounds to believe that a person has committed
17 retail theft may detain such person, on the premises of a
18 retail mercantile establishment, in a reasonable manner and
19 for a reasonable length of time for all or any of the
20 following purposes:

21 (a) to request identification;

22 (b) to verify such identification;

23 (c) to make reasonable oral inquiry as to
24 whether such person has in his possession unpurchased
25 merchandise and, to make reasonable investigation of
26 the ownership of such merchandise;

27 (d) to inform a peace officer of the detention
28 of the person and surrender custody of that person
29 to a peace officer; or

30 (e) in the case of a minor, to immediately
31 inform a peace officer and the parents or guardian or

1 other private person interested in the welfare of
2 that minor of this detention and to surrender custody
3 of such minor to such person.

4 Section 43.94. Affirmative Defense. A detention, as
5 permitted in this Article, does not constitute an arrest or
6 unlawful restraint, as defined in Section 22.35 of this
7 Code, nor shall it render the merchant liable to the person
8 so detained unless said detention is done unreasonably or
9 without proper cause or justification.

10 Section 43.95. If any part of this Article is
11 declared invalid by a court, then the remainder of this
12 Article shall still be in effect."

13 Section 3. A new Item (3.5) is added to Section 80.10
14 of the Criminal and Correctional Code to read:

15 "(3.5) to report to the court administered
16 alternative community service program to perform services
17 for the community as said program shall provide. A
18 person ordered to perform such services shall be ordered
19 to work for a specific number of hours. This work shall
20 be certified to the court by the supervisor of the
21 alternative community service program."

22 Section 4. A new Chapter 81 is added to the Criminal and
23 Correctional Code to read:

24 "CHAPTER 81

25 Reduction of Sentences

26 Section 81.10 (a) Any person in custody of the
27 Department of Corrections may work at cleaning up littered
28 areas and beaches of the island of Guam, provided, that
29 the Director of Corrections (1) determines the person
30 merits such privilege and is physically able to do such
31 work and (2) can provide supervision of crews.

1 (b) For each forty (40) hours of work done, the
2 person's sentence shall be reduced by one (1) day.

3 (c) The Directors of the Departments of Public Works
4 and Parks and Recreation shall cooperate with the Director
5 of the Department of Corrections in choosing areas for
6 work."

E 3-12-80

15TH GUAM LEGISLATURE

VOTING RECORD

SBILL/RESOLUTION NO. 62

MAIN SPONSOR 9HU

SENATOR	AYE	NAY	NOT VOTING	ABSENT
AGUON, Katherine B.				
BAMBA, Cecilia C.	out			
BLAS, Frank F.	✓			
CHARFAUROS, Edward T.		✓		
CRISOSTOMO, Thomas C.	✓			
DUENAS, Edward R.	✓			
ESPALDON, Ernesto M.	✓			
KASPERBAUER, Carmen A.	✓			
LAMORENA, Alberto C., III	✓	✓		
PALOMO, Antonio M.	✓			
PALOMO, Benigno M.	✓			
PEREZ, Peter, Jr.	✓			
QUAN, John F.		✓		
QUITUGUA, Franklin J.		✓		
SAN AGUSTIN, Joe T.	✓			
SANTOS, Francisco R.	out			
SUDO, Ramon Q.		✓		
TAITANO, Richard F.	out			
TANAKA, Thomas V. C.	✓			
UNDERWOOD, James H.	✓			
UNPINGCO, Antonio R.		✓		

TOTAL

11 6 0 3