HOUSE BILL 1118

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

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AN ACT

RELATING TO CRIMINAL OFFENSES; REQUIRING THOSE WHO DETAIN A PERSON SUSPECTED OF SHOPLIFTING TO REMOVE THE PERSON THROUGH AN EXIT NOT COMMONLY USED BY THE GENERAL PUBLIC AS AN ENTRANCE, IF POSSIBLE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-16-23 NMSA 1978 (being Laws 1965, Chapter 5, Section 4) is amended to read:

"30-16-23. REASONABLE DETENTION.--If [any] a law enforcement officer, special officer or merchant has probable cause for believing that a person has willfully taken possession of [any] merchandise with the intention of converting it without paying for it, or has willfully concealed merchandise, and that [he] the officer or merchant can recover the merchandise by detaining the person or taking [him] the

1   person into custody, the law enforcement officer, special

2   officer or merchant may, for the purpose of attempting to

3   [affect] effect a recovery of the merchandise, take the person

4   into custody and detain [him] the person in a reasonable manner

5   for a reasonable time, provided that the officer or merchant

6   shall take the person into custody through an exit in the

7   premises that is not commonly used by the general public as an

8   entrance, if such an exit exists. Such taking into custody or

9   detention shall not subject the officer or merchant to [any]

10   criminal or civil liability.

11   [Any] A law enforcement officer may arrest without warrant

12   [any] a person [he] the officer has probable cause for

13   believing has committed the crime of shoplifting. [Any] A

14   merchant who causes such an arrest shall not be criminally or

15   civilly liable if [he] the merchant has probable cause for

16   believing the person so arrested has committed the crime of

17   shoplifting and if the merchant has the person removed from the

18   premises through an exit not commonly used by the general

19   public as an entrance, if such an exit exists."

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