

433.236 Detention and arrest of shoplifting suspect -- Immunity from criminal liability.

- (1) A peace officer, security agent of a mercantile establishment, merchant, or merchant's employee who has probable cause to believe that goods held for sale by the merchant have been unlawfully taken by a person may take the person into custody and detain him or her in a reasonable manner for a reasonable length of time, on the premises of the mercantile establishment or off the premises of the mercantile establishment, if the persons enumerated in this section are in fresh pursuit, for any of the following purposes:
 - (a) To request identification;
 - (b) To verify such identification;
 - (c) To make reasonable inquiry as to whether such person has in his or her possession unpurchased merchandise, and to make reasonable investigation of the ownership of such merchandise;
 - (d) To recover or attempt to recover goods taken from the mercantile establishment by such person, or by others accompanying him or her; or
 - (e) To inform a peace officer or law enforcement agency of the detention of the person and to surrender the person to the custody of a peace officer, and in the case of a minor, to inform the parents, guardian, or other person having custody of that minor of his or her detention, in addition to surrendering the minor to the custody of a peace officer.
- (2) Any person exercising any authority granted in subsection (1) of this section may use a reasonable amount of force necessary to protect himself or herself and to prevent the escape of the person detained or the loss of goods for sale. Except as provided in KRS Chapter 503, deadly force shall not be justified solely to protect property.
- (3) The recovery of goods taken from the mercantile establishment by the person detained or by others shall not limit the right of the persons named in subsection (1) of this section to detain such person for peace officers or otherwise accomplish the purposes of subsection (1) of this section.
- (4) Any person enumerated in subsection (1) of this section shall be immune from criminal liability and shall only be subject to civil liability for failing to exercise reasonable care for any authority granted under this section.
- (5) Any peace officer may arrest without warrant any person he or she has probable cause to believe has committed larceny in retail or wholesale establishments.

Effective: July 15, 2024

History: Amended 2024 Ky. Acts ch. 174, sec. 31, effective July 15, 2024. -- Amended 1978 Ky. Acts ch. 75, sec. 1, effective June 17, 1978. -- Amended 1968 Ky. Acts ch. 49, sec. 2. -- Created 1958 Ky. Acts ch. 11, sec. 2.