

Select Year:

## The 2017 Florida Statutes

---

[Title XLVI](#)  
CRIMES

[Chapter 812](#)  
THEFT, ROBBERY, AND RELATED CRIMES

[View Entire Chapter](#)

### **812.015 Retail and farm theft; transit fare evasion; mandatory fine; alternative punishment; detention and arrest; exemption from liability for false arrest; resisting arrest; penalties. –**

(1) As used in this section:

- (a) “Merchandise” means any personal property, capable of manual delivery, displayed, held, or offered for retail sale by a merchant.
- (b) “Merchant” means an owner or operator, or the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises or apparatus used for retail purchase or sale of any merchandise.
- (c) “Value of merchandise” means the sale price of the merchandise at the time it was stolen or otherwise removed, depriving the owner of her or his lawful right to ownership and sale of said item.
- (d) “Retail theft” means the taking possession of or carrying away of merchandise, property, money, or negotiable documents; altering or removing a label, universal product code, or price tag; transferring merchandise from one container to another; or removing a shopping cart, with intent to deprive the merchant of possession, use, benefit, or full retail value.
- (e) “Farm produce” means livestock or any item grown, produced, or manufactured by a person owning, renting, or leasing land for the purpose of growing, producing, or manufacturing items for sale or personal use, either part time or full time.
- (f) “Farmer” means a person who is engaging in the growing or producing of farm produce, milk products, honey, eggs, or meat, either part time or full time, for personal consumption or for sale and who is the owner or lessee of the land or a person designated in writing by the owner or lessee to act as her or his agent. No person defined as a farm labor contractor pursuant to s. [450.28](#) shall be designated to act as an agent for purposes of this section.
- (g) “Farm theft” means the unlawful taking possession of any items that are grown or produced on land owned, rented, or leased by another person. The term includes the unlawful taking possession of equipment and associated materials used to grow or produce farm products as defined in s. [823.14\(3\)\(c\)](#).
- (h) “Antishiplifting or inventory control device” means a mechanism or other device designed and operated for the purpose of detecting the removal from a mercantile establishment or similar enclosure, or from a protected area within such an enclosure, of specially marked or tagged merchandise. The term includes any electronic or digital imaging or any video recording or other film used for security purposes and the cash register tape or other record made of the register receipt.
- (i) “Antishiplifting or inventory control device countermeasure” means any item or device which is designed, manufactured, modified, or altered to defeat any antishiplifting or inventory control device.
- (j) “Transit fare evasion” means the unlawful refusal to pay the appropriate fare for transportation upon a mass transit vehicle, or to evade the payment of such fare, or to enter any mass transit vehicle or facility by any door, passageway, or gate, except as provided for the entry of fare-paying passengers, and shall constitute petit theft as proscribed by this chapter.
- (k) “Mass transit vehicle” means buses, rail cars, or fixed-guideway mover systems operated by, or under contract to, state agencies, political subdivisions of the state, or municipalities for the transportation of fare-paying passengers.

(l) “Transit agency” means any state agency, political subdivision of the state, or municipality which operates mass transit vehicles.

(m) “Trespass” means the violation as described in s. [810.08](#).

(2) Upon a second or subsequent conviction for petit theft from a merchant, farmer, or transit agency, the offender shall be punished as provided in s. [812.014\(3\)](#), except that the court shall impose a fine of not less than \$50 or more than \$1,000. However, in lieu of such fine, the court may require the offender to perform public services designated by the court. In no event shall any such offender be required to perform fewer than the number of hours of public service necessary to satisfy the fine assessed by the court, as provided by this subsection, at the minimum wage prevailing in the state at the time of sentencing.

(3)(a) A law enforcement officer, a merchant, a farmer, or a transit agency’s employee or agent, who has probable cause to believe that a retail theft, farm theft, a transit fare evasion, or trespass, or unlawful use or attempted use of any antishoplifting or inventory control device countermeasure, has been committed by a person and, in the case of retail or farm theft, that the property can be recovered by taking the offender into custody may, for the purpose of attempting to effect such recovery or for prosecution, take the offender into custody and detain the offender in a reasonable manner for a reasonable length of time. In the case of a farmer, taking into custody shall be effectuated only on property owned or leased by the farmer. In the event the merchant, merchant’s employee, farmer, or a transit agency’s employee or agent takes the person into custody, a law enforcement officer shall be called to the scene immediately after the person has been taken into custody.

(b) The activation of an antishoplifting or inventory control device as a result of a person exiting an establishment or a protected area within an establishment shall constitute reasonable cause for the detention of the person so exiting by the owner or operator of the establishment or by an agent or employee of the owner or operator, provided sufficient notice has been posted to advise the patrons that such a device is being utilized. Each such detention shall be made only in a reasonable manner and only for a reasonable period of time sufficient for any inquiry into the circumstances surrounding the activation of the device.

(c) The taking into custody and detention by a law enforcement officer, merchant, merchant’s employee, farmer, or a transit agency’s employee or agent, if done in compliance with all the requirements of this subsection, shall not render such law enforcement officer, merchant, merchant’s employee, farmer, or a transit agency’s employee or agent, criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

(4) Any law enforcement officer may arrest, either on or off the premises and without warrant, any person the officer has probable cause to believe unlawfully possesses, or is unlawfully using or attempting to use or has used or attempted to use, any antishoplifting or inventory control device countermeasure or has committed theft in a retail or wholesale establishment or on commercial or private farm lands of a farmer or transit fare evasion or trespass.

(5)(a) A merchant, merchant’s employee, farmer, or a transit agency’s employee or agent who takes a person into custody, as provided in subsection (3), or who causes an arrest, as provided in subsection (4), of a person for retail theft, farm theft, transit fare evasion, or trespass shall not be criminally or civilly liable for false arrest or false imprisonment when the merchant, merchant’s employee, farmer, or a transit agency’s employee or agent has probable cause to believe that the person committed retail theft, farm theft, transit fare evasion, or trespass.

(b) If a merchant or merchant’s employee takes a person into custody as provided in this section, or acts as a witness with respect to any person taken into custody as provided in this section, the merchant or merchant’s employee may provide his or her business address rather than home address to any investigating law enforcement officer.

(6) An individual who, while committing or after committing theft of property, transit fare evasion, or trespass, resists the reasonable effort of a law enforcement officer, merchant, merchant’s employee, farmer, or a transit agency’s employee or agent to recover the property or cause the individual to pay the proper transit fare or vacate the transit facility which the law enforcement officer, merchant, merchant’s employee, farmer, or a transit agency’s employee or agent had probable cause to believe the individual had concealed or removed from its place of display or elsewhere or perpetrated a transit fare evasion or trespass commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#), unless the individual did not know, or did not have

reason to know, that the person seeking to recover the property was a law enforcement officer, merchant, merchant's employee, farmer, or a transit agency's employee or agent. For purposes of this section the charge of theft and the charge of resisting may be tried concurrently.

(7) It is unlawful to possess, or use or attempt to use, any antishoplifting or inventory control device countermeasure within any premises used for the retail purchase or sale of any merchandise. Any person who possesses any antishoplifting or inventory control device countermeasure within any premises used for the retail purchase or sale of any merchandise commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#). Any person who uses or attempts to use any antishoplifting or inventory control device countermeasure within any premises used for the retail purchase or sale of any merchandise commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(8) Except as provided in subsection (9), a person who commits retail theft commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#), if the property stolen is valued at \$300 or more, and the person:

(a) Individually, or in concert with one or more other persons, coordinates the activities of one or more individuals in committing the offense, in which case the amount of each individual theft is aggregated to determine the value of the property stolen;

(b) Commits theft from more than one location within a 48-hour period, in which case the amount of each individual theft is aggregated to determine the value of the property stolen;

(c) Acts in concert with one or more other individuals within one or more establishments to distract the merchant, merchant's employee, or law enforcement officer in order to carry out the offense, or acts in other ways to coordinate efforts to carry out the offense; or

(d) Commits the offense through the purchase of merchandise in a package or box that contains merchandise other than, or in addition to, the merchandise purported to be contained in the package or box.

(9) A person commits a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#), if the person:

(a) Violates subsection (8) and has previously been convicted of a violation of subsection (8); or

(b) Individually, or in concert with one or more other persons, coordinates the activities of one or more persons in committing the offense of retail theft where the stolen property has a value in excess of \$3,000.

**History.**—s. 2, ch. 78-348; s. 177, ch. 79-164; s. 1, ch. 80-379; s. 1, ch. 81-108; s. 1, ch. 81-163; s. 165, ch. 83-216; s. 2, ch. 86-161; s. 1, ch. 88-325; s. 40, ch. 91-110; s. 190, ch. 91-224; s. 2, ch. 92-79; s. 11, ch. 95-184; s. 1, ch. 96-366; s. 1820, ch. 97-102; s. 33, ch. 97-280; s. 3, ch. 2001-115; s. 2, ch. 2007-177; s. 63, ch. 2011-206; s. 18, ch. 2012-83.