

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 841
SENATE BILL 438

AN ACT TO IMPOSE MINIMUM TERMS OF IMPRISONMENT AND
COMMUNITY SERVICE FOR CONVICTIONS OF CONCEALING
MERCHANDISE OR SWITCHING PRICE TAGS.

The General Assembly of North Carolina enacts:

Section 1. The first sentences of G.S. 14-72.1(a) and (d) are each amended by deleting that part of the sentence beginning with the words "by a fine" and substituting the phrase "as provided in subsection (e)."

Sec. 2. G.S. 14-72.1(b) is deleted.

Sec. 3. G.S. 14-72.1 is amended by adding the following subsections to read:

"(e) Punishment. For a first conviction under subsections (a) or (d), or for a subsequent conviction for which the punishment is not specified by this subsection, the defendant may be fined up to one hundred dollars (\$100.00) and must be sentenced to a term of imprisonment that includes a minimum term of not less than 24 hours and a maximum term of not more than 60 days. The term of imprisonment may be suspended only on condition that the defendant perform community service for a term of at least 24 hours. For a second offense committed within three years after the date the defendant was convicted of an offense under this section, the defendant may be fined up to five hundred dollars (\$500.00) and must be sentenced to a term of imprisonment that includes a minimum term of not less than 72 hours and a maximum term of not more than six months. The term of imprisonment may be suspended only on condition that the defendant be imprisoned for a term of at least 72 hours as a condition of special probation, perform community service for a term of at least 72 hours, or both. For a third or subsequent offense committed within five years after the date the defendant was convicted of two other offenses under this section, the defendant may be fined and must be sentenced to a term of imprisonment that includes a minimum term of not less than 14 days and a maximum term of not more than two years. The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least 14 days.

(f) Community Service Period. If the judgment requires a defendant sentenced under this section to perform a specified number of hours of community service, the community service must be completed within:

- (1) 90 days, if the amount of community service required is 72 hours or more;
- (2) 60 days, if the amount of community service required is at least 48 hours but less than 72 hours; and

- (3) 30 days, if the amount of community service required is at least 24 hours but less than 48 hours.

The court may extend these time limits upon motion of the defendant if it finds that the defendant has made a good faith effort to comply with the time limits specified in this subsection. Failure to complete the community service requirement within the applicable time limits is a violation of the defendant's probation.

- (g) Limitations. For active terms of imprisonment imposed under this section:
 - (1) The judge may not give credit to the defendant for the first 24 hours of time spent in incarceration pending trial;
 - (2) The defendant must serve the mandatory minimum period of imprisonment and good or gain time credit may not be used to reduce that mandatory minimum period; and
 - (3) The defendant may not be released or paroled unless he is otherwise eligible and has served the mandatory minimum period of imprisonment."

Sec. 4. This act shall become effective October 1, 1986, and shall apply to offenses committed on or after that date.

In the General Assembly read three times and ratified, this the 30th day of June, 1986.