

The State of South Carolina



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March 19, 1990

The Honorable Carroll A. Campbell, Jr.
Governor of the State of South Carolina
Post Office Box 11369
Columbia, South Carolina 29211

Dear Governor Campbell:

By your letter of March 14, 1990, you have requested the opinion of this Office as to whether shoplifting would be a crime involving moral turpitude within the purview of Article VI, Section 8 of the Constitution of the State of South Carolina.

Moral turpitude is traditionally defined as

an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow man, or to society in general, contrary to the accepted and customary rule of right and duty between man and man. ...Moral turpitude implies something immoral in itself, regardless of whether it is punishable by law as a crime. ...

An act in which fraud is an ingredient involves moral turpitude.

State v. Horton, 271 S.C. 413, 414, 248 S.E.2d 263 (1978);
Op. Atty. Gen. dated March 11, 1988.

Shoplifting, under South Carolina law, is a statutory property offense codified at Section 16-13-105 et seq. of the South Carolina Code of Laws (1976 & 1989 Cum. Supp.). As described in McAninch and Fairey, THE CRIMINAL LAW OF SOUTH CAROLINA (2d Ed. 1989), at pages 272-3,

The statute proscribes three different types of action, each of which must be accompanied by "the intention of depriving the merchant of the possession, use or benefit of such merchandise without paying the full retail value."... The

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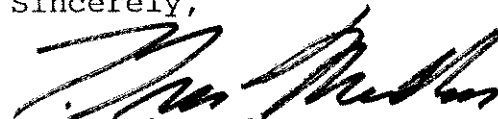
proscribed actions include: (1) taking possession of or carrying away, transferring from one person to another or from one area of the store to another an item of merchandise or the causing of same; (2) the transferring, altering or removing of any indication of price on the item of merchandise coupled with an attempt to purchase the item at less than full retail value; and (3) transferring any item of merchandise from its original container to another. [Emphasis in original.]

The offense of shoplifting has been found to involve moral turpitude in decisions such as: State v. Superior Court, In and For Pima County, 121 Ariz. 174, 589 P.2d 48 (Ariz. App. 1978) (the offense of shoplifting held to involve moral turpitude); In Re Mahr, 276 Or. 939, 556 P.2d 1359 (1976); Committee on Professional Ethics and Conduct of Iowa State Bar Ass'n v. Toomey, 236 N.W.2d 39 (Iowa 1975); Hall v. Heavey, 195 N.J. Super. 590, 481 A.2d 294 (1984); In Re Conduct of Chase, 299 Or. 391, 702 P.2d 1082 (1985); Matter of Wilkerson, 255 Ga. 338, 338 S.E.2d 4 (1986); Tilley v. Page, 181 Ga.App. 98, 351 S.E.2d 464 (1986); Prout v. State, 311 Md. 348, 535 A.2d 445 (1988); Gonzales Quiroz v. State, 753 S.W.2d 230 (Tex.App. 1988).

Thus, it is the opinion of this Office that the offense of shoplifting would be a crime involving moral turpitude within the purview of Article VI, Section 8 of the Constitution of the State of South Carolina.

With kindest regards, I am

Sincerely,


T. Travis Medlock
Attorney General

TTM/nnw

cc: Trudy U. Martin
Town Administrator
Town of Blacksburg