

SENATE BILL NO. 213

INTRODUCED BY E. MCCLAFFERTY, S. MALEK, S. WEBBER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING PHOTOGRAPHING EVIDENCE IN THEFT CASES; PROVIDING THAT THE PHOTOGRAPHER SHALL PREPARE A WRITTEN REPORT DESCRIBING THE ITEMS AND OTHER PERTINENT INFORMATION; PROVIDING THAT THE REPORT NO LONGER MUST BE NOTARIZED; AND AMENDING SECTION 26-1-608, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 26-1-608, MCA, is amended to read:

**"26-1-608. Photographs of items allegedly taken or converted -- admissibility procedure.** (1) In a prosecution for a violation of 45-6-301, photographs of the items alleged to have been taken or converted are competent evidence of the items and are admissible in a proceeding, hearing, or trial as if the items themselves were introduced as evidence so long as responding law enforcement personnel have designated a person to be responsible for properly photographing the items and preserving the photographic evidence.

(2) ~~The photographs must bear~~ designated person shall write a report in connection with photographing the items. The report must include a written description of the items alleged to have been taken or converted, the name of the owner from whom the items were allegedly taken or the store or establishment, as appropriate, where the alleged offense occurred, the name of the accused, the name of the arresting officer, the date the photographs were taken, and a statement by the photographer that the photographs accurately represent the items in question.

(3) ~~The writing required under subsection (2) must be made under oath by the arresting officer, and the photographs must be identified by the signature of the photographer.~~ Upon the filing of the photograph and the writing report written pursuant to subsection (2) with the law enforcement agency or court holding the items as evidence, the items must be returned to their owner or the proprietor or manager of the store or establishment."

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