

# STATE OF NEW YORK

5082

2025-2026 Regular Sessions

## IN SENATE

February 18, 2025

Introduced by Sens. SEPULVEDA, COMRIE -- read twice and ordered printed,  
and when printed to be committed to the Committee on Consumer  
Protection

AN ACT to amend the general business law, in relation to mercantile  
establishments and the defense of lawful detention

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. Section 218 of the general business law, as amended by  
2 chapter 374 of the laws of 1994, is amended to read as follows:  
3 § 218. 1. Defense of lawful detention. In any action for false  
4 arrest, false imprisonment, unlawful detention, defamation of character,  
5 assault, trespass, or invasion of civil rights, brought by any person by  
6 reason of having been detained on or in the immediate vicinity of the  
7 premises of (a) a retail mercantile establishment for the purpose of  
8 investigation or questioning as to criminal possession of an anti-secur-  
9 ity item as defined in section 170.47 of the penal law or as to the  
10 ownership of any merchandise, or (b) a motion picture theater for the  
11 purposes of investigation or questioning as to the unauthorized opera-  
12 tion of a recording device in a motion picture theater, it shall be a  
13 defense to such action that the person was detained in a reasonable  
14 manner and for not more than a reasonable time to permit such investi-  
15 gation or questioning by a peace officer acting pursuant to [~~his~~] such  
16 peace officer's special duties, police officer or by the owner of the  
17 retail mercantile establishment or motion picture theater, [~~his~~] such  
18 owner of the retail mercantile establishment or motion picture theater's  
19 authorized employee or agent, and that such officer, owner, employee or  
20 agent had reasonable grounds to believe that the person so detained was  
21 guilty of criminal possession of an anti-security item as defined in  
22 section 170.47 of the penal law or was committing or attempting to  
23 commit larceny on such premises of such merchandise or was engaged in

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD02168-01-5

1 the unauthorized operation of a recording device in a motion picture  
2 theater.

3 2. As used in this section, "reasonable grounds" shall include, but  
4 not be limited to, knowledge that a person [~~(i)~~] (a) has concealed  
5 possession of unpurchased merchandise of a retail mercantile establish-  
6 ment, or [~~(ii)~~] (b) has possession of an item designed for the purpose  
7 of overcoming detection of security markings attachments placed on  
8 merchandise offered for sale at such an establishment, or [~~(iii)~~] (c)  
9 has possession of a recording device in a theater in which a motion  
10 picture is being exhibited [~~and a~~].

11 3. A "reasonable time" shall mean the time necessary, not to exceed  
12 one hour, except for extraordinary circumstances, to permit the person  
13 detained to make a statement or to refuse to make a statement[7] and the  
14 time necessary to examine employees and records of the mercantile estab-  
15 lishment relative to the ownership of the merchandise, or possession of  
16 such an item or device.

17 4. The release from detention shall not be conditioned upon any  
18 requirement that, the person detained pursuant to subdivision one of  
19 this section, or such person's parent or legal guardian, sign any docu-  
20 ments, statements, or agreements to pay damages. Any documents presented  
21 shall not contain any message stating that such document or statement is  
22 being signed voluntarily and without coercion. Any person detained, or  
23 such person's parent or legal guardian, who signs any statement or docu-  
24 ments, shall, upon release, be provided with copies of such statements  
25 or documents so signed. A minor, under the age of eighteen, detained  
26 pursuant to this section, should immediately be afforded the ability to  
27 contact such minor's parents or legal guardian.

28 5. Such detention at such vicinity shall not authorize the taking of  
29 such person's fingerprints at such vicinity unless the taking of finger-  
30 prints is otherwise authorized by section 160.10 of the criminal proce-  
31 dure law and are taken by the arresting or other appropriate police  
32 officer or agency described therein in accordance with section 140.20 or  
33 140.27 of such law. Whenever fingerprints are taken, the requirements of  
34 article one hundred sixty of the criminal procedure law shall apply as  
35 if fully set forth herein.

36 § 2. This act shall take effect immediately.