

CALIFORNIA SECURITY CASE LAW LIBRARY

Shopkeeper's Privilege and Detaining Suspected Shoplifters

Updated 2026-08-04 · 8 min read · Cluster: casebook ·
summitsecuritysacramento.com/case-law/shopkeepers-privilege-penal-code-490-5

Penal Code 490.5 lets a merchant or their agent, including contracted security, detain a person for a reasonable time to investigate suspected shoplifting when there is probable cause to believe theft occurred. The privilege is not unlimited: it requires a reasonable manner, a reasonable duration, and a genuine, articulable basis for suspicion.

The scope of the privilege

Penal Code section 490.5 codifies what is often called the shopkeeper's privilege: a merchant, or an agent of the merchant such as a loss prevention officer or contracted guard, may detain a person suspected of theft for the purpose of conducting an investigation in a reasonable manner and for a reasonable time.

Probable cause here typically means specific, articulable facts, such as direct observation of concealment or a failure to pay, not a hunch or a customer's appearance.

The privilege covers investigation, not punishment. It does not authorize searches beyond what is reasonably necessary, nor does it authorize force beyond what is needed to prevent flight or protect safety.

Reasonable manner and reasonable time in practice

Factor	What courts and the statute focus on	Field takeaway
Basis for suspicion	Specific observed facts versus general suspicion	Write down exactly what was seen before the stop, not after
Location of the stop	Whether the detention happened in a non-public, non-humiliating setting where practical	Move the conversation away from other customers when possible
Duration	How long the person was held before police arrived or the matter resolved	Call police early; do not let an investigatory stop stretch into an extended hold
Search conduct	Whether any search went beyond visual observation or voluntary cooperation	Avoid physical searches of a person or their bags absent clear store policy and training

Common ways the privilege is lost

- Detaining someone based only on race, appearance, or a manager's vague suspicion rather than observed conduct
- Holding a person for an unreasonably long period while waiting on unrelated matters
- Using physical force beyond what is needed to prevent someone from leaving
- Publicly accusing a customer of theft in a way that is unnecessarily humiliating

Research and education only

This content is provided for research and education about California private-security practices. Summit Force Security Group is not a law firm and does not offer legal advice or representation. Anyone involved in a specific detention dispute should speak with a licensed California attorney.

Quick answers

Can a store detain a suspected shoplifter before police arrive?

Yes, under Penal Code 490.5, for a reasonable time and in a reasonable manner, if there is probable cause of theft.

Can security search a customer's bag under this privilege?

The privilege is about detention for investigation, not a general search power; physical searches carry much higher risk.

What counts as probable cause for a shoplifting stop?

Specific, observed facts such as concealment of merchandise or passing all points of sale without paying, not just suspicion based on appearance.

Is there a time limit on the detention?

The statute requires a reasonable time, generally understood as only as long as needed to investigate and involve law enforcement.

Primary sources — read the official text

Penal Code Section 490.5	California Legislative Information	https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=490.5
Penal Code Section 459.5 (Shoplifting)	California Legislative Information	https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=459.5
BSIS Consumer Guide to Private Security	Bureau of Security and Investigative Services	https://www.bsis.ca.gov/consumers/
California Courts Self-Help	Judicial Council of California	https://www.courts.ca.gov/selfhelp.htm

Research and education only. Summit Force Security Group is a licensed private patrol operator (PPO #122730), not a law firm. Nothing in this digest is legal advice, no attorney-client relationship is created, and nothing here implies endorsement or approval by BSIS, the Department of Consumer Affairs, the Labor Commissioner, the Civil Rights Department, the State of California, OSHA, FEMA, or any court or agency. Statutes and case law change — verify the current text with the primary sources above and consult a licensed California attorney about your situation.

Need coverage instead of research? Summit Force Security Group · 1-800-823-5337 · Summitforces@gmail.com · summitsecuritysacramento.com