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**NEW JERSEY**  
**CHAPTER 56**

**AN ACT** concerning organized retail theft, amending N.J.S.2C:20-11 and supplementing chapter 20 of Title 2C of the New Jersey Statutes.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.2C:20-11 is amended to read as follows:

Shoplifting.

- a. Definitions. The following definitions apply to this section:

- (1) "Shopping cart" means those push carts of the type or types which are commonly provided by grocery stores, drug stores or other retail mercantile establishments for the use of the public in transporting commodities in stores and markets and, incidentally, from the stores to a place outside the store;

- (2) "Store or other retail mercantile establishment" means a place where merchandise is displayed, held, stored or sold or offered to the public for sale;

- (3) "Merchandise" means any goods, chattels, foodstuffs or wares of any type and description, regardless of the value thereof;

- (4) "Merchant" means any owner or operator of any store or other retail mercantile establishment, or any agent, servant, employee, lessee, consignee, officer, director, franchisee or independent contractor of such owner or proprietor;

- (5) "Person" means any individual or individuals, including an agent, servant or employee of a merchant where the facts of the situation so require;

- (6) "Conceal" means to conceal merchandise so that, although there may be some notice of its presence, it is not visible through ordinary observation;

- (7) "Full retail value" means the merchant's stated or advertised price of the merchandise;

- (8) "Premises of a store or retail mercantile establishment" means and includes but is not limited to, the retail mercantile establishment; any common use areas in shopping centers and all parking areas set aside by a merchant or on behalf of a merchant for the parking of vehicles for the convenience of the patrons of such retail mercantile establishment;

- (9) "Under-ring" means to cause the cash register or other sale recording device to reflect less than the full retail value of the merchandise;

- (10) "Antishoplifting or inventory control device countermeasure" means any item or device which is designed, manufactured, modified, or altered to defeat any antishoplifting or inventory control device;

- (11) "Organized retail theft enterprise" means any association of two or more persons who engage in the conduct of or are associated for the purpose of effectuating the transfer or sale of shoplifted merchandise.

b. Shoplifting. Shoplifting shall consist of any one or more of the following acts:

(1) For any person purposely to take possession of, carry away, transfer or cause to be carried away or transferred, any merchandise displayed, held, stored or offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the possession, use or benefit of such merchandise or converting the same to the use of such person without paying to the merchant the full retail value thereof.

(2) For any person purposely to conceal upon his person or otherwise any merchandise offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the processes, use or benefit of such merchandise or converting the same to the use of such person without paying to the merchant the value thereof.

(3) For any person purposely to alter, transfer or remove any label, price tag or marking indicia of value or any other markings which aid in determining value affixed to any merchandise displayed, held, stored or offered for sale by any store or other retail mercantile establishment and to attempt to purchase such merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of all or some part of the value thereof.

(4) For any person purposely to transfer any merchandise displayed, held, stored or offered for sale by any store or other retail merchandise establishment from the container in or on which the same shall be displayed to any other container with intent to deprive the merchant of all or some part of the retail value thereof.

(5) For any person purposely to under-ring with the intention of depriving the merchant of the full retail value thereof.

(6) For any person purposely to remove a shopping cart from the premises of a store or other retail mercantile establishment without the consent of the merchant given at the time of such removal with the intention of permanently depriving the merchant of the possession, use or benefit of such cart.

c. Gradation. (1) Shoplifting constitutes a crime of the second degree under subsection b. of this section if the full retail value of the merchandise is \$75,000 or more, or the offense is committed in furtherance of or in conjunction with an organized retail theft enterprise and the full retail value of the merchandise is \$1,000 or more.

(2) Shoplifting constitutes a crime of the third degree under subsection b. of this section if the full retail value of the merchandise exceeds \$500 but is less than \$75,000, or the offense is committed in furtherance of or in conjunction with an organized retail theft enterprise and the full retail value of the merchandise is less than \$1,000.

(3) Shoplifting constitutes a crime of the fourth degree under subsection b. of this section if the full retail value of the merchandise is at least \$200 but does not exceed \$500.

(4) Shoplifting is a disorderly persons offense under subsection b. of this section if the full retail value of the merchandise is less than \$200.

The value of the merchandise involved in a violation of this section may be aggregated in determining the grade of the offense where the acts or conduct

constituting a violation were committed pursuant to one scheme or course of conduct, whether from the same person or several persons, or were committed in furtherance of or in conjunction with an organized retail theft enterprise.

Additionally, notwithstanding the term of imprisonment provided in N.J.S.2C:43-6 or 2C:43-8, any person convicted of a shoplifting offense shall be sentenced to perform community service as follows: for a first offense, at least ten days of community service; for a second offense, at least 15 days of community service; and for a third or subsequent offense, a maximum of 25 days of community service and any person convicted of a third or subsequent shoplifting offense shall serve a minimum term of imprisonment of not less than 90 days.

d. Presumptions. Any person purposely concealing unpurchased merchandise of any store or other retail mercantile establishment, either on the premises or outside the premises of such store or other retail mercantile establishment, shall be prima facie presumed to have so concealed such merchandise with the intention of depriving the merchant of the possession, use or benefit of such merchandise without paying the full retail value thereof, and the finding of such merchandise concealed upon the person or among the belongings of such person shall be prima facie evidence of purposeful concealment; and if such person conceals, or causes to be concealed, such merchandise upon the person or among the belongings of another, the finding of the same shall also be prima facie evidence of willful concealment on the part of the person so concealing such merchandise.

e. A law enforcement officer, or a special officer, or a merchant, who has probable cause for believing that a person has willfully concealed unpurchased merchandise and that he can recover the merchandise by taking the person into custody, may, for the purpose of attempting to effect recovery thereof, take the person into custody and detain him in a reasonable manner for not more than a reasonable time, and the taking into custody by a law enforcement officer or special officer or merchant shall not render such person criminally or civilly liable in any manner or to any extent whatsoever.

Any law enforcement officer may arrest without warrant any person he has probable cause for believing has committed the offense of shoplifting as defined in this section.

A merchant who causes the arrest of a person for shoplifting, as provided for in this section, shall not be criminally or civilly liable in any manner or to any extent whatsoever where the merchant has probable cause for believing that the person arrested committed the offense of shoplifting.

f. Any person who possesses or uses any antishoplifting or inventory control device countermeasure within any store or other retail mercantile establishment is guilty of a disorderly persons offense.

#### C.2C:20-11.2 Leader of organized retail theft enterprise.

2. A person is a leader of an organized retail theft enterprise if he conspires with others as an organizer, supervisor, financier or manager, to engage for profit in a scheme or course of conduct to effectuate the transfer or sale of shoplifted merchandise. Leader of organized retail theft enterprise is a crime of the second degree. Notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, the court

may impose a fine not to exceed \$250,000 or five times the retail value of the merchandise seized at the time of the arrest, whichever is greater.

Notwithstanding the provisions of N.J.S.2C:1-8, a conviction of leader of organized retail theft enterprise shall not merge with the conviction for any offense which is the object of the conspiracy. Nothing contained in this section shall prohibit the court from imposing an extended term pursuant to N.J.S.2C:43-7; nor shall this section be construed in any way to preclude or limit the prosecution or conviction of any person for conspiracy under N.J.S.2C:5-2, or any prosecution or conviction for any other offense.

It shall not be necessary in any prosecution under this section for the State to prove that any intended profit was actually realized. The trier of fact may infer that a particular scheme or course of conduct was undertaken for profit from all of the attending circumstances, including but not limited to the number of persons involved in the scheme or course of conduct, the actor's net worth and his expenditures in relation to his legitimate sources of income, the amount of merchandise involved, or the amount of cash or currency involved.

It shall not be a defense to a prosecution under this section that any shoplifted merchandise was brought into or transported in this State solely for ultimate distribution in another jurisdiction; nor shall it be a defense that any profit was intended to be made in another jurisdiction.

3. This act shall take effect immediately.

Approved August 2, 2006.

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**WASHINGTON  
HOUSE BILL 2704**

Passed Legislature - 2006 Regular Session

**State of Washington 59th Legislature 2006 Regular Session**

**By** Representatives O'Brien, Pearson, Darneille, Kirby, Ahern,  
Williams, Strow, Kilmer, Green, Sells and Morrell

Read first time 01/12/2006. Referred to Committee on Criminal  
Justice & Corrections.

AN ACT Relating to organized retail theft; amending RCW 9A.56.010; reenacting and amending RCW 9A.82.010 and 9.94A.515; adding new sections to chapter 9A.56 RCW; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.56 RCW to read as follows:

(1) A person is guilty of theft with the intent to resell if he or she commits theft of property with a value of at least two hundred fifty dollars from a mercantile establishment with the intent to resell the property for monetary or other gain.

(2) The person is guilty of theft with the intent to resell in the first degree if the property has a value of one thousand five hundred dollars or more. Theft with the intent to resell in the first degree is a class B felony.

(3) The person is guilty of theft with the intent to resell in the second degree if the property has a value of at least two hundred fifty dollars, but less than one thousand five hundred dollars. Theft with the intent to resell in the second degree is a class C felony.

(4) For purposes of this section, a series of thefts committed by the same person from one or more mercantile establishments over a period of one hundred eighty days may be aggregated in one count and the sum of the value of all the property shall be the value considered in determining the degree of the theft with the intent to resell involved. Thefts committed by the same person in different counties that have been aggregated in one county may be prosecuted in any county in which one of the thefts occurred.

NEW SECTION. **Sec. 2.** A new section is added to chapter 9A.56 RCW to read as follows:

(1) A person is guilty of organized retail theft if he or she:

(a) Commits theft of property with a value of at least two hundred fifty dollars from a mercantile establishment with an accomplice; or

(b) Possesses stolen property, as defined in RCW 9A.56.140, with a value of at least two hundred fifty dollars from a mercantile establishment with an accomplice.

(2) A person is guilty of organized retail theft in the first degree if the property stolen or possessed has a value of one thousand five hundred dollars or more. Organized retail theft in the first degree is a class B felony.

(3) A person is guilty of organized retail theft in the second degree if the property stolen or possessed has a value of at least two hundred fifty dollars, but less than one thousand five hundred dollars.

Organized retail theft in the second degree is a class C felony.

(4) For purposes of this section, a series of thefts committed by the same person from one or more mercantile establishments over a period of one hundred eighty days may be aggregated in one count and the sum of the value of all the property shall be the value considered in determining the degree of the organized retail theft involved.

Thefts committed by the same person in different counties that have been aggregated in one county may be prosecuted in any county in which one of the thefts occurred.

**NEW SECTION. Sec. 3.** A new section is added to chapter 9A.56 RCW to read as follows:

(1) A person commits retail theft with extenuating circumstances if he or she commits theft of property from a mercantile establishment with one of the following extenuating circumstances:

(a) To facilitate the theft, the person leaves the mercantile establishment through a designated emergency exit;

(b) The person was, at the time of the theft, in possession of an item, article, implement, or device designed to overcome security systems including, but not limited to, lined bags or tag removers; or

(c) The person committed theft at three or more separate and distinct mercantile establishments within a one hundred eighty-day period.

(2) A person is guilty of retail theft with extenuating circumstances in the first degree if the theft involved constitutes theft in the first degree. Retail theft with extenuating circumstances in the first degree is a class B felony.

(3) A person is guilty of retail theft with extenuating circumstances in the second degree if the theft involved constitutes theft in the second degree. Retail theft with extenuating circumstances in the second degree is a class C felony.

(4) A person is guilty of retail theft with extenuating circumstances in the third degree if the theft involved constitutes theft in the third degree. Retail theft with extenuating circumstances in the third degree is a class C felony.

Section 4-6 removed because it was mostly definitions. See summary attached to e-mail.

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**Alabama**  
**SB 295**

SYNOPSIS: Existing law does not provide for a separate penalty for a person who in conjunction with another person steals property within a 180-day period with the aggregate amount of the property exceeding one thousand dollars in value. This bill would expand the crime of theft of property in the first degree to include the theft of property resulting from a common plan or scheme by one or more persons, where the object of the plan or scheme is to sell or transfer the property to another person or business who knows that the property is stolen, and the cumulative value of the property is not less than \$1,000 within a 180-day period. This bill would provide for penalties and the venue for the prosecution of the action.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 13A-8-3 of the Code of Alabama 1975, is amended to read as follows:  
13 "§13A-8-3.

"(a) The theft of property which exceeds two thousand five hundred dollars (\$2,500) in value, or property of any value taken from the person of another, constitutes theft of property in the first degree.

"(b) The theft of a motor vehicle, regardless of its value, constitutes theft of property in the first degree.

"(c)(1) The theft of property which involves all of the following constitutes theft of property in the first degree:

"a. The theft is a common plan or scheme by one or more persons; and

"b. The object of the common plan or scheme is to sell or transfer the property to another person or business that buys the property with knowledge or reasonable belief that the property is stolen; and

"c. The aggregate value of the property stolen is at least one thousand dollars (\$1,000) within a 180-day period.

"(2) If the offense under this subsection involves two or more counties, prosecution may be commenced in any one of those counties in which the offense occurred or in which the property was disposed.

"(c) (d) Theft of property in the first degree is a Class B felony."

Section 2. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Amendment 621, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, because the bill defines a new crime or amends the definition of an existing crime.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

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**COLORADO 2006**  
**HB 1380**

**Second Regular Session**  
**Sixty-fifth General Assembly**  
**STATE OF COLORADO**  
**REREVISED**

*This Version Includes All Amendments*

*Adopted in the Second House*

LLS NO. 06-0951.01 Stephen Miller **HOUSE BILL 06-1380**

**House Committees Senate Committees**

Judiciary Business, Labor and Technology

Appropriations

**A BILL FOR AN ACT**

**101 CONCERNING THE DEVELOPMENT OF MEASURES TO REDUCE THE THEFT**

**102 OF RETAIL GOODS.**

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Modifies the mandatory sentencing for repeated felony theft from a store by basing the mandatory sentencing on commission of 2 prior felony thefts from a store within the previous 10 years instead of the previous 4 years. Specifies that a person subject to mandatory sentencing for repeated felony theft from a store is not eligible for a sentence to community corrections.

Prohibits sellers of property at flea markets and similar facilities from selling certain property items without proof of ownership. Requires

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sellers to make the proof of ownership available to any peace officer for inspection at any reasonable time. Makes it a class 3 misdemeanor to sell property without proof of ownership.

Creates the interagency task force on organized retail theft to investigate methods of effectively preventing organized retail theft and develop recommendations regarding the enhancement of law enforcement efforts and education concerning organized retail theft.

*1 Be it enacted by the General Assembly of the State of Colorado:*

*2*

*3 SECTION 1.* Article 13 of title 18, Colorado Revised Statutes, is

*4 amended BY THE ADDITION OF NEW SECTION to read:*

*5 18-13-114.5. Proof of ownership required - penalty -*

*6 definitions. (1) A PERSON WHO IS A SECONDHAND DEALER OR A DEALER*

7 AND RETAILER OF NEW GOODS AND WHO SELLS GOODS AT A FLEA  
MARKET

8 OR SIMILAR FACILITY SHALL NOT SELL OR OFFER FOR SALE ANY OF THE  
9 FOLLOWING PROPERTY ITEMS WITHOUT PROOF OF OWNERSHIP:

10 (a) BABY FOOD OF A TYPE USUALLY CONSUMED BY CHILDREN  
11 UNDER THREE YEARS OF AGE;

12 (b) COSMETICS;

13 (c) DEVICES;

14 (d) DRUGS;

15 (e) INFANT FORMULA;

16 (f) BATTERIES; OR

17 (g) RAZOR BLADES.

18 (2) A PERSON REQUIRED TO HAVE PROOF OF OWNERSHIP UNDER  
19 SUBSECTION (1) OF THIS SECTION SHALL MAKE SUCH PROOF OF  
OWNERSHIP

20 AVAILABLE TO ANY PEACE OFFICER FOR INSPECTION AT ANY  
REASONABLE

21 TIME.

(3) FOR PURPOSES OF THIS SECTION:

2 (a) "COSMETIC" MEANS AN ARTICLE, OR ITS COMPONENTS,

3 INTENDED TO BE RUBBED, Poured, SPRINKLED, OR SPRAYED ON,

4 INTRODUCED INTO, OR OTHERWISE APPLIED TO, THE HUMAN BODY, OR  
ANY

5 PART OF THE HUMAN BODY, FOR CLEANSING, BEAUTIFYING,  
PROMOTING

6 ATTRACTIVENESS, OR ALTERING APPEARANCE. "COSMETIC" DOES NOT  
7 INCLUDE SOAP.

8 (b) "DEVICE" MEANS AN INSTRUMENT, APPARATUS, IMPLEMENT,

9 MACHINE, CONTRIVANCE, IMPLANT, IN VITRO REAGENT, OR OTHER  
SIMILAR

10 OR RELATED ARTICLE, INCLUDING A COMPONENT, PART, OR  
ACCESSORY,

11 THAT IS:

12 (I) RECOGNIZED IN THE OFFICIAL NATIONAL FORMULARY OR THE  
13 UNITED STATES PHARMACOPOEIA, OR ANY SUPPLEMENT TO THEM;

14 (II) INTENDED FOR USE IN THE DIAGNOSIS OF DISEASE OR OTHER

15 CONDITION, OR IN THE CURE, MITIGATION, TREATMENT, OR  
PREVENTION OF

16 DISEASE IN HUMANS OR ANIMALS; OR

17 (III) INTENDED TO AFFECT THE STRUCTURE OR ANY FUNCTION OF

18 THE BODY OF HUMANS OR ANIMALS AND THAT DOES NOT ACHIEVE  
ANY OF

19 ITS PRINCIPAL INTENDED PURPOSES THROUGH CHEMICAL ACTION  
WITHIN

20 OR ON THE BODY OF HUMANS OR ANIMALS AND THAT IS NOT  
DEPENDENT

21 UPON BEING METABOLIZED FOR THE ACHIEVEMENT OF ANY OF ITS  
22 PRINCIPAL INTENDED PURPOSES.

23 (c) "DRUG" MEANS:

24 (I) ANY ARTICLE RECOGNIZED IN AN OFFICIAL COMPENDIUM OF  
25 DRUGS;

26 (II) AN ARTICLE USED OR INTENDED FOR USE IN THE DIAGNOSIS,  
27 CURE, MITIGATION, TREATMENT, OR PREVENTION OF DISEASE IN  
HUMANS  
OR ANIMALS;

2 (III) AN ARTICLE, OTHER THAN FOOD, THAT IS USED OR INTENDED  
3 TO AFFECT THE STRUCTURE OR ANY FUNCTION OF THE BODY OF  
HUMANS

4 OR ANIMALS; OR

5 (IV) AN ARTICLE INTENDED FOR USE AS A COMPONENT OF AN  
6 ARTICLE SPECIFIED IN SUBPARAGRAPH (I), (II), OR (III) OF THIS  
PARAGRAPH

7 (c).

8 (d) "INFANT FORMULA" MEANS A FOOD THAT PURPORTS TO BE OR  
9 IS REPRESENTED FOR SPECIAL DIETARY USE SOLELY AS A FOOD FOR  
10 INFANTS BY REASON OF ITS SIMULATION OF HUMAN MILK OR ITS  
11 SUITABILITY AS A COMPLETE OR PARTIAL SUBSTITUTE FOR HUMAN  
MILK.

12 (e) "PROOF OF OWNERSHIP" SHALL INCLUDE:

13 (I) THE NAME, ADDRESS, TELEPHONE NUMBER, AND SIGNATURE OF  
14 THE SELLER OR THE SELLER'S AUTHORIZED REPRESENTATIVE;

15 (II) THE NAME AND ADDRESS OF THE BUYER OR CONSIGNEE IF NOT  
16 SOLD; AND

17 (III) A DESCRIPTION AND QUANTITY OF THE PRODUCT.

18 (4) A VIOLATION OF THIS SECTION IS A CLASS 3 MISDEMEANOR.

19 **SECTION 2.** Part 4 of article 4 of title 18, Colorado Revised

20 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
21 read:

22 **18-4-411.5. Interagency task force on organized retail theft -**

23 **legislative declaration - repeal.** (1) THE GENERAL ASSEMBLY FINDS AND  
24 DECLARES THAT IT IS NECESSARY AND IN THE BEST INTERESTS OF THE  
25 CITIZENS OF COLORADO TO:

26 (a) FACILITATE COLORADO'S COMMUNICATION WITH THE FEDERAL  
27 ORGANIZED RETAIL THEFT TASK FORCE CREATED WITHIN THE  
FEDERAL

BUREAU OF INVESTIGATION;

2 (b) SECURE FUNDING, IF MADE AVAILABLE BY THE FEDERAL  
3 GOVERNMENT, TO COLORADO'S LAW ENFORCEMENT AGENCIES THAT  
4 COMBAT ORGANIZED RETAIL THEFT; AND

5 (c) INVOLVE THE GENERAL ASSEMBLY, LAW ENFORCEMENT  
6 AGENCIES, DISTRICT ATTORNEYS, AND RETAIL BUSINESSES IN  
COLORADO

7 IN DETERMINING THE MOST APPROPRIATE STRATEGIES TO HELP DETER  
AND

8 REDUCE ORGANIZED RETAIL THEFT.

9 (2) THERE IS HEREBY CREATED AN INTERAGENCY TASK FORCE ON  
10 ORGANIZED RETAIL THEFT, REFERRED TO IN THIS SECTION AS THE  
"TASK

11 FORCE". THE TASK FORCE SHALL MEET REGULARLY TO INVESTIGATE  
12 METHODS OF EFFECTIVELY PREVENTING ORGANIZED RETAIL THEFT  
AND

13 DEVELOP RECOMMENDATIONS FOR THE STATE OF COLORADO  
REGARDING

14 THE ENHANCEMENT OF LAW ENFORCEMENT EFFORTS AND EDUCATION  
15 CONCERNING ORGANIZED RETAIL THEFT.

16 (3) (a) THE TASK FORCE SHALL CONSIST OF THE FOLLOWING NINE  
17 MEMBERS TO BE APPOINTED BY THE PRESIDENT OF THE SENATE, THE  
18 SPEAKER OF THE HOUSE, AND THE GOVERNOR:

19 (I) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF  
20 COUNTY SHERIFFS;

21 (II) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF CHIEFS  
22 OF POLICE;

23 (III) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION THAT  
24 REPRESENTS COLORADO'S ELECTED COUNTY COMMISSIONERS;

25 (IV) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION THAT  
26 REPRESENTS COLORADO'S ELECTED CITY COUNCIL PERSONS;

27 (V) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF  
DISTRICT ATTORNEYS; AND

2 (VI) FOUR PERSONS ACTIVELY ENGAGED IN RETAIL BUSINESS IN  
3 COLORADO.

4 (b) MEMBERS OF THE TASK FORCE SHALL NOT BE COMPENSATED  
5 OR REIMBURSED FOR THEIR EXPENSES INCURRED IN ATTENDING  
MEETINGS

6 OF THE TASK FORCE.

7 (4) THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF  
8 REPRESENTATIVES, AND THE GOVERNOR SHALL SELECT A  
CHAIRPERSON

9 FROM THE APPOINTED PERSONS DESCRIBED IN SUBSECTION (3) OF THIS  
10 SECTION, AND SUCH CHAIRPERSON SHALL CALL THE FIRST MEETING  
OF THE

11 TASK FORCE.

12 (5) THE TASK FORCE SHALL REPORT ITS FINDINGS AND  
13 RECOMMENDATIONS TO THE JUDICIARY COMMITTEES OF THE HOUSE  
OF

14 REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR  
COMMITTEES, ON

15 OR BEFORE JANUARY 31, 2007.

16 (6) THIS SECTION IS REPEALED, EFFECTIVE FEBRUARY 1, 2007.

17 **SECTION 3. Effective date - applicability.** This act shall take  
18 effect July 1, 2006, and shall apply to offenses committed on or after said  
19 date.

20 **SECTION 4. Safety clause.** The general assembly hereby finds,  
21 determines, and declares that this act is necessary for the immediate  
22 preservation of the public peace, health, and safety.

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**Arizona 2007**  
**SB 1333**

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session

2007 AN ACT

amending section 13-1805, Arizona Revised Statutes; relating to theft. Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 13-1805, Arizona Revised Statutes, is amended to read:

**13-1805. Shoplifting; detaining suspect; defense to wrongful detention; civil action by merchant; public services; classification**

A. A person commits shoplifting if, while in an establishment in which merchandise is displayed for sale, the person knowingly obtains such goods of another with the intent to deprive that person of such goods by:

1. Removing any of the goods from the immediate display or from any other place within the establishment without paying the purchase price; or
2. Charging the purchase price of the goods to a fictitious person or any person without that person's authority; or
3. Paying less than the purchase price of the goods by some trick or artifice such as altering, removing, substituting or otherwise disfiguring any label, price tag or marking; or
4. Transferring the goods from one container to another; or
5. Concealment.

B. Any person who knowingly conceals ~~upon~~ on himself or another person unpurchased merchandise of any mercantile establishment while within the mercantile establishment is presumed to have the necessary culpable mental state pursuant to subsection A of this section.

C. A merchant, or a merchant's agent or employee, with reasonable cause, may detain on the premises in a reasonable manner and for a reasonable time any person who is suspected of shoplifting as prescribed in subsection A of this section for questioning or summoning a law enforcement officer.

D. Reasonable cause is a defense to a civil or criminal action against a peace officer, a merchant or an agent or employee of the merchant for false arrest, false or unlawful imprisonment or wrongful detention.

E. If a minor engages in conduct that violates subsection A of this section, notwithstanding the fact that the minor may not be held responsible because of the person's minority, any merchant **who is** injured by the shoplifting of the minor may bring a civil action against the parent or legal guardian of the minor under either section 12-661 or 12-692.

F. Any merchant who is injured by the shoplifting of an adult or emancipated minor in violation of subsection A of this section may bring a civil action against the adult or emancipated minor pursuant to section 12-691.

G. Shoplifting property with a value of two thousand dollars or more or shoplifting property during any continuing criminal episode ~~regardless of the value of the goods~~ is a class 5 felony. Shoplifting property with a value of one thousand dollars or more but less than two thousand dollars is a class 6 felony. Shoplifting property valued at less than one thousand dollars is a class 1 misdemeanor, unless the property is a firearm in which case the shoplifting is a class 6 felony. For the purposes of this subsection, "continuing criminal episode" means theft **of property with a value of two thousand dollars or more if** committed ~~from~~ **during** at least three separate ~~retail establishments incidences~~ within a period of ~~three~~ **one hundred eighty** consecutive days **with the intent to resell the merchandise.**

H. In imposing sentence on a person who is convicted of violating this section, the court may require any person to perform public services designated by the court in addition to or in lieu of any fine that the court might impose.

I. A person who commits shoplifting and who has previously committed or been convicted within the past five years of two or more offenses involving burglary, shoplifting, robbery or theft or who in the course of shoplifting entered the mercantile establishment with an artifice, instrument, container, device or other article that was intended to facilitate shoplifting is guilty of a class 4 felony.

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## Arizona SB 1547

– ORC Taskforce

State of Arizona

Senate

Forty-eighth Legislature

First Regular Session

2007

### SENATE BILL 1547

#### AN ACT

##### Establishing the organized retail theft task force.

Be it enacted by the Legislature of the State of Arizona:

#### Section 1. Organized retail theft task force; powers and duties; definition

A. The organized retail theft task force is established. The task force shall consist of eleven members who are appointed in the following manner:

1. Two police chiefs who are appointed by the Arizona chiefs' of police association, one of whom represents a city or town with a population of one hundred thousand or more persons and one of whom represents a city or town with a population of less than one hundred thousand persons, or their designees.
2. Two sheriffs who are appointed by the Arizona sheriffs' association, one of whom represents a county with a population of five hundred thousand or more persons and one of whom represents a county with a population of less than five hundred thousand persons, or their designees.
3. The director of the department of public safety or the director's designee.
4. Two county attorneys who are appointed by the executive director of the Arizona prosecuting attorneys' advisory council, one of whom represents a county with a population of one million or more persons and one of whom represents a county with a population of less than one million persons, or their designees.
5. Four persons actively engaged in retail business in this state, two of whom are appointed by the speaker of the house of representatives and two of whom are appointed by the president of the senate.

B. Task force members are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2, Arizona Revised Statutes.

C. The task force shall:

1. Determine the scope of the problem of organized retail theft, including particular areas of this state where the problem is greatest.
  2. Analyze the various methods of combating the problem of organized retail theft.
  3. Determine recommendations for statutory changes regarding organized retail theft.
  4. Facilitate this state's communication with the federal organized retail theft task force created within the federal bureau of investigation.
  5. Secure funding, if made available by the federal government to this state's law enforcement agencies for the purpose of fighting organized retail theft.
  6. On or before December 1, 2008, report its findings and recommendations to the legislature.
- D. For the purpose of this section, "organized retail theft" means:
1. The stealing, embezzlement or obtaining by fraud, false pretenses or other illegal means, of retail merchandise for the purpose of reselling the items or for reentering the items into commerce.
  2. The coordination, organization, facilitation or recruitment of persons to undertake such stealing, embezzlement or obtaining.

Sec. 2. **Delayed repeal**

This act is repealed from and after September 30, 2009.

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**DELAWARE 2007**

**HB 180**

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Chapter 5, Title 11 of the Delaware Code by adding thereto a new section to read:

“§852A. Selling stolen property; class A misdemeanor; class G felony.

A person is guilty of selling stolen property if, after the person receives stolen property pursuant to §851 of this chapter, the person sells some or all of the stolen property received. A person may be convicted of both Receiving Stolen Property and Selling Stolen Property. Selling Stolen Property is a class A misdemeanor, unless the value of the resold property is \$1,000 or more, or unless the seller has been convicted two or more times of Selling Stolen Property, in which cases it is a class G felony.”

**SYMPOSIUM**

This bill creates a Selling Stolen Property charge, which is used when a person receives stolen property and then sells it to another person. It is a class A misdemeanor unless the value of the property sold is \$1,000 or more, or unless the seller has been convicted two or more times of Selling Stolen Property, in which cases it is a class G felony.

A class A misdemeanor is punishable by a fine of up to \$2,300 or a term of imprisonment of up to year, or both, and any fines, costs, or conditions that the Court orders. A class G felony is punishable by a term of imprisonment of up to 2 years and such other fines and penalties as the court considers appropriate

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**DELAWARE 2007**  
**HB 121**

SPONSOR: Rep. Miro & Sen. DeLuca;  
Reps. Hudson, Valihura

HOUSE OF REPRESENTATIVES  
144th GENERAL ASSEMBLY  
HOUSE BILL NO. 121

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO SPECIFIC OFFENSES.

WHEREAS, organized retail crime involving the obtaining by fraud and theft of merchandise from entities engaged in interstate commerce is a nationwide problem of an increasing scale and cost American companies and consumers \$37 billion in 2006; and

WHEREAS, the increasing losses by retailers as a result of organized retail crime have made certain goods and products less available and accessible to Delaware consumers; and

WHEREAS, organized retail crime is separate and distinct from shoplifting in that it involves professional theft rings that move quickly from community to community and across state lines, to steal large amounts of merchandise. Shoplifting is limited to items that are stolen by an individual for personal use or gain; and

WHEREAS, the uncontrolled redistribution and unsafe storage of stolen and fraudulently obtained consumer products such as baby formula, over-the-counter drugs and other products by persons engaged in such organized crime is a health and safety hazard to Delaware consumers; and

WHEREAS, the unregulated black market sales of such fraudulently obtained and stolen merchandise results in millions of dollars in loss of sales and income tax revenues to State and local governments; and

WHEREAS, the illegal income from the expanding theft and resale of stolen retail goods is often used to benefit persons and organizations engaged in other forms of organized crime such as drug trafficking, gang activity and terrorism; and

WHEREAS, organized retail crime rings often defraud retailers through the use of stolen, altered, or other fraudulent payment mechanisms. In addition, these crime rings also frequently return stolen merchandise to fraudulently obtain refunds; and

WHEREAS, organized retail crime rings are increasingly using counterfeit, forged, misappropriated and improperly transferred Universal Product Code labels and other devices employed to identify articles for sale as a method for achieving their ends; and

WHEREAS, criminals engaged in organized retail crime often sell stolen merchandise in settings such as swap meets, flea markets and illegal store fronts. These criminals also increasingly use anonymous, internet-based marketplaces to sell goods and avoid detection by law enforcement.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. This Act shall be known and may be cited as the Delaware Organized Retail Crime Act.

Section 2. (a) It is the intent of the Legislature in enacting this statute to define Organized Retail Crime to provide law enforcement and prosecutorial authorities and the judiciary with an understanding of the unique nature of Organized Retail Crime and to provide them with additional tools to help stop this crime.

(b) It is the intent of the Legislature in enacting this statute to facilitate cooperation among law enforcement and prosecutorial authorities by removing jurisdictional barriers and allowing cooperation and assistance across jurisdictions.

(c) It is the intent of the Legislature in enacting this statute to limit or remove the ability of criminals engaged in Organized Retail Crime to take advantage of monetary and/or geographic jurisdictional requirements, and the anonymity provided by internet-based or other marketplaces.

Section 3. Amend Chapter 5 of Title 11 of the Delaware Code to reletter 841(d) as (e) and enact as a new § 841(d) the following:

“(1) A person is guilty of theft when the person takes, exercises control over or obtains property of another person intending to deprive that person of it or appropriate it. Theft is a class A misdemeanor unless the value of the property stolen is \$1,000 or more, or unless the person has twice before been convicted of theft in which case it is a class G felony.

(2) Every flea market vendor and every person whose principal business is dealing in, or collecting merchandise or personal property, and every agent, employee or representative of that person who buys or receives any new or unused property that has been stolen or obtained in any manner constituting theft or extortion, under circumstances that should cause the person, agent, employee or representative to make reasonable inquiry to ascertain that the person from whom the property was bought or received had the legal right to sell or deliver it, without making a reasonable inquiry, shall be guilty of a class A misdemeanor unless the value of the property is \$1,000 or more, or unless the person has twice before been convicted of theft or receiving stolen property in which case it is a class G felony.

(3) As used in this Section, ‘Organized Retail Crime’ means the theft, embezzlement or obtaining by fraud, false pretenses or other illegal means, of retail merchandise in quantities that would not normally be purchased for personal use or consumption and for the purpose of reselling the items or for reentering the items into commerce; the receipt, possession, concealment, bartering, sale, transport or disposal of any property that is known or should be known to have been stolen, embezzled, or so obtained; or the coordination, organization, facilitation or recruitment of persons to undertake such theft, embezzlement, or obtaining of such receipt, possession, concealment, bartering, sale, transport or disposal.

(4) For purposes of this Section, a series of thefts committed by the same person or persons may be aggregated in one (1) count and the sum of the value of all the property shall be the value considered in determining the degree of the theft. Theft committed by the same person or persons in different counties that have been aggregated

in one (1) county may be prosecuted in any county in which one (1) of the thefts or arrests occurred.”.

(5) SYNOPSIS

This Act establishes as a specific crime the felony offense of organized crime with the offense being a class G felony if it is in excess of \$1,000, or has been convicted previously twice before of theft, otherwise it is a class A misdemeanor.

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**FLORIDA 2007**  
**SB 1644**

ENROLLED

2007 Legislature

CS for SB 1644

1

2 An act relating to retail theft; amending s.  
3 [812.014](#), F.S.; providing enhanced penalties for  
4 theft exceeding a specified amount for persons  
5 who individually, or in concert with others,  
6 coordinate the activities of one or more  
7 persons in committing the theft; amending s.  
8 [812.015](#), F.S.; providing enhanced penalties for  
9 retail theft exceeding a specified amount for  
10 persons who individually, or in concert with  
11 others, coordinate the activities of one or  
12 more persons in committing the offense;  
13 amending s. [921.0022](#), F.S.; conforming the  
14 Criminal Punishment Code offense severity  
15 ranking chart; providing an effective date.

16

17 Be It Enacted by the Legislature of the State of Florida:

18

19 Section 1. Subsection (6) is added to section [812.014](#),

20 Florida Statutes, to read:

21 [812.014](#) Theft.--

22 (6) A person who individually, or in concert with one  
23 or more other persons, coordinates the activities of one or  
24 more persons in committing theft under this section where the  
25 stolen property has a value in excess of \$3,000 commits a  
26 felony of the second degree, punishable as provided in s.  
27 [775.082](#), s. [775.083](#), or s. [775.084](#).

28 Section 2. Subsections (8) and (9) of section [812.015](#),  
29 Florida Statutes, are amended to read:

30 [812.015](#) Retail and farm theft; transit fare evasion;  
31 mandatory fine; alternative punishment; detention and arrest;  
exemption from liability for false arrest; resisting arrest;  
2 penalties.--

3 (8) Except as provided in subsection (9), If a person  
4 who commits retail theft commits, ~~it is~~ a felony of the third  
5 degree, punishable as provided in s. [775.082](#), s. [775.083](#), or  
6 s. [775.084](#), if the property stolen is valued at \$300 or more,  
7 and the person:

8 (a) Individually, or in concert with one or more other  
9 persons, coordinates the activities of one or more individuals  
10 in committing the offense, in which case the amount of each  
11 individual theft is aggregated to determine the value of the  
12 property stolen;

13 (b) Commits theft from more than one location within a  
14 48-hour period, in which case the amount of each individual  
15 theft is aggregated to determine the value of the property  
16 stolen;

17 (c) Acts in concert with one or more other individuals  
18 within one or more establishments to distract the merchant,  
19 merchant's employee, or law enforcement officer in order to  
20 carry out the offense, or acts in other ways to coordinate  
21 efforts to carry out the offense; or

22 (d) Commits the offense through the purchase of  
23 merchandise in a package or box that contains merchandise  
24 other than, or in addition to, the merchandise purported to be  
25 contained in the package or box.

26 (9) A ~~Any~~ person commits a felony of the second  
27 degree, punishable as provided in s. 775.082, s. 775.083, or  
28 s. 775.084, if the person:

29 (a) who ~~who~~ Violates subsection (8) and ~~who~~ has previously  
30 been convicted of a violation of subsection (8); or

31

ENROLLED

2007 Legislature

CS for SB 1644

1     (b) Individually, or in concert with one or more other  
2 persons, coordinates the activities of one or more persons in  
3 committing the offense of retail theft where the stolen  
4 property has a value in excess of \$3,000 ~~commits a felony of~~  
5 ~~the second degree, punishable as provided in s. [775.082](#), s.~~  
6 ~~[775.083](#), or s. [775.084](#).~~

7     Section 3. Paragraph (f) of subsection (3) of section  
8 [921.0022](#), Florida Statutes, is amended to read:

9     (3) OFFENSE SEVERITY RANKING CHART

10 Florida	Felony	Description
11 Statute	Degree	
	(f) LEVEL 6	
13 <a href="#">316.193</a> (2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
14		
15 <a href="#">499.0051</a> (3)	2nd	Forgery of pedigree papers.
16 <a href="#">499.0051</a> (4)	2nd	Purchase or receipt of legend
17		drug from unauthorized person.
18 <a href="#">499.0051</a> (5)	2nd	Sale of legend drug to
19		unauthorized person.
20 <a href="#">775.0875</a> (1)	3rd	Taking firearm from law
21		enforcement officer.

- 22 [784.021](#)(1)(a) 3rd Aggravated assault; deadly weapon  
23 without intent to kill.
- 24 [784.021](#)(1)(b) 3rd Aggravated assault; intent to  
25 commit felony.
- 26 [784.041](#) 3rd Felony battery.
- 27 [784.048](#)(3) 3rd Aggravated stalking; credible  
28 threat.
- 29 [784.048](#)(5) 3rd Aggravated stalking of person  
30 under 16.
- 1 [784.07](#)(2)(c) 2nd Aggravated assault on law  
2 enforcement officer.
- 3 [784.074](#)(1)(b) 2nd Aggravated assault on sexually  
4 violent predators facility staff.
- 5 [784.08](#)(2)(b) 2nd Aggravated assault on a person 65  
6 years of age or older.
- 7 [784.081](#)(2) 2nd Aggravated assault on specified  
8 official or employee.
- 9 [784.082](#)(2) 2nd Aggravated assault by detained  
10 person on visitor or other  
11 detainee.
- 12 [784.083](#)(2) 2nd Aggravated assault on code  
13 inspector.
- 14 [787.02](#)(2) 3rd False imprisonment; restraining

15 with purpose other than those in  
16 s. [787.01](#).  
17 [790.115](#)(2)(d) 2nd Discharging firearm or weapon on  
18 school property.  
19 [790.161](#)(2) 2nd Make, possess, or throw  
20 destructive device with intent to  
21 do bodily harm or damage  
22 property.  
23 [790.164](#)(1) 2nd False report of deadly explosive,  
24 weapon of mass destruction, or  
25 act of arson or violence to state  
26 property.  
27 [790.19](#) 2nd Shooting or throwing deadly  
28 missiles into dwellings, vessels,  
29 or vehicles.  
30  
1 [794.011](#)(8)(a) 3rd Solicitation of minor to  
2 participate in sexual activity by  
3 custodial adult.  
4 [794.05](#)(1) 2nd Unlawful sexual activity with  
5 specified minor.  
6 [800.04](#)(5)(d) 3rd Lewd or lascivious molestation;  
7 victim 12 years of age or older

8 but less than 16 years; offender  
9 less than 18 years.  
10 [800.04](#)(6)(b) 2nd Lewd or lascivious conduct;  
11 offender 18 years of age or  
12 older.  
13 [806.031](#)(2) 2nd Arson resulting in great bodily  
14 harm to firefighter or any other  
15 person.  
16 [810.02](#)(3)(c) 2nd Burglary of occupied structure;  
17 unarmed; no assault or battery.  
18 [812.014](#)(2)(b)1. 2nd Property stolen \$20,000 or more,  
19 but less than \$100,000, grand  
20 theft in 2nd degree.  
21 [812.015](#)(9)(a) 2nd Retail theft; property stolen  
22 \$300 or more; second or  
23 subsequent conviction.  
24 [812.014](#)(6) 2nd Theft; property stolen \$3,000 or  
25 more; coordination of others.  
26 [812.015](#)(9)(b) 2nd Retail theft; property stolen  
27 \$3,000 or more; coordination of  
28 others.  
29 [812.13](#)(2)(c) 2nd Robbery, no firearm or other  
30 weapon (strong-arm robbery).

- 1 [817.034](#)(4)(a)1. 1st Communications fraud, value  
2 greater than \$50,000.
- 3 [817.4821](#)(5) 2nd Possess cloning paraphernalia  
4 with intent to create cloned  
5 cellular telephones.
- 6 [825.102](#)(1) 3rd Abuse of an elderly person or  
7 disabled adult.
- 8 [825.102](#)(3)(c) 3rd Neglect of an elderly person or  
9 disabled adult.
- 10 [825.1025](#)(3) 3rd Lewd or lascivious molestation of  
11 an elderly person or disabled  
12 adult.
- 13 [825.103](#)(2)(c) 3rd Exploiting an elderly person or  
14 disabled adult and property is  
15 valued at less than \$20,000.
- 16 [827.03](#)(1) 3rd Abuse of a child.
- 17 [827.03](#)(3)(c) 3rd Neglect of a child.
- 18 [827.071](#)(2) & (3) 2nd Use or induce a child in a sexual  
19 performance, or promote or direct  
20 such performance.
- 21 [836.05](#) 2nd Threats; extortion.
- 22 [836.10](#) 2nd Written threats to kill or do  
23 bodily injury.

- 24 [843.12](#) 3rd Aids or assists person to escape.
- 25 [847.0135](#)(2) 3rd Facilitates sexual conduct of or  
26 with a minor or the visual  
27 depiction of such conduct.
- 28 [914.23](#) 2nd Retaliation against a witness,  
29 victim, or informant, with bodily  
30 injury.
- 1 [944.35](#)(3)(a)2. 3rd Committing malicious battery upon  
2 or inflicting cruel or inhuman  
3 treatment on an inmate or  
4 offender on community  
5 supervision, resulting in great  
6 bodily harm.
- 7 [944.40](#) 2nd Escapes.
- 8 [944.46](#) 3rd Harboring, concealing, aiding  
9 escaped prisoners.
- 10 [944.47](#)(1)(a)5. 2nd Introduction of contraband  
11 (firearm, weapon, or explosive)  
12 into correctional facility.
- 13 [951.22](#)(1) 3rd Intoxicating drug, firearm, or  
14 weapon introduced into county  
15 facility.
- 16 Section 4. This act shall take effect October 1, 2007.

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**LOUISIANA 207**  
**HB 113**

**ENROLLED**

Page 1 of 3

CODING: Words in struck through type are deletions from existing law; words underscored are additions.

Regular Session, 2007 ACT No. 395

HOUSE BILL NO. 113

BY REPRESENTATIVES M. POWELL AND TRICHE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To enact R.S. 14:67.24, relative to theft; to create the crime of organized retail theft; to  
3 provide for definitions; to provide for penalties; and to provide for related matters.

4 Be it enacted by the Legislature of Louisiana:

5 Section 1. R.S. 14:67.24 is hereby enacted to read as follows:

6 §67.24. Organized retail theft

7 A. As used in this Section the following terms have the following meanings:

8 (1) "Retail establishment" means any business, whether a sole proprietorship,  
9 corporation, partnership, or otherwise, which holds or stores articles, products,  
10 commodities, items, or components for sale to the public or to other retail  
11 establishments.

12 (2) "Retail property" means any article, product, commodity, item, or  
13 component intended to be sold to the public or to other retail establishments.

14 (3) "Retail property fence" means any person who knowingly and  
15 intentionally procures, receives, or conceals stolen retail property.

16 (4) "Stolen retail property" means either retail property which has been the  
17 subject of a theft from a retail establishment or retail property which the offender,  
18 procuring, receiving, or concealing that property knows or reasonably believes to be  
19 the subject of a theft.

**HB NO. 113 ENROLLED**

Page 2 of 3

CODING: Words in struck through type are deletions from existing law; words underscored are additions.

1 (5) "Value" means the price of the retail property as stated, posted, or  
2 advertised by the affected retail establishment, including applicable sales taxes.

3 B. Organized retail theft is the intentional procuring, receiving, or concealing  
4 of stolen retail property with the intent to sell, deliver, or distribute that property.

5 C. It shall be presumptive evidence that the owner or operator of any retail  
6 establishment has violated Subsection B of this Section when:

7 (1) On more than one occasion within any one-hundred-eighty-day period  
8 the offender has intentionally possessed, procured, received, or concealed stolen  
9 retail property; and  
10 (2) The stolen retail property was possessed, procured, received, or  
11 concealed from or on behalf of any person who:  
12 (a) Did not have a proper business license; or  
13 (b) Did not pay sales or use taxes to the state or the appropriate local  
14 government subdivision in the jurisdiction where the possessing, procuring,  
15 receiving, or concealing took place for the transfer of the items to the owner or  
16 operator of the retail establishment; or  
17 (c) Accepted a cash payment for the stolen retail property and did not  
18 provide the owner or operator of the possessing, procuring, receiving, or concealing  
19 retail establishment an invoice for the sale.  
20 D. Whoever commits the crime of organized retail theft when the aggregate  
21 amount of the misappropriation, taking, purchasing, possessing, procuring, receiving,  
22 or concealing in any one-hundred-eighty-day period amounts to a value less than five  
23 hundred dollars shall be imprisoned with or without hard labor for not more than two  
24 years, or may be fined not more than two thousand dollars, or both.  
25 E. Whoever commits the crime of organized retail theft when the aggregate  
26 amount of the misappropriation, taking, purchasing, possessing, procuring, receiving,  
27 or concealing in any one-hundred-eighty-day period amounts to a value more than

**HB NO. 113 ENROLLED**

Page 3 of 3

CODING: Words in struck through type are deletions from existing law; words  
underscored  
are additions.

1 five hundred dollars shall be imprisoned with or without hard labor for not more  
2 than ten years, or may be fined not more than ten thousand dollars, or both.

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**NEVADA 2007**  
**AB 421**

Assembly Bill No. 421—Assemblywomen Weber  
and Kirkpatrick (by request)

CHAPTER.....

AN ACT relating to crimes; establishing the crime of participating  
in an organized retail theft ring; providing penalties; and  
providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law provides that a person commits the crime of theft if the person: (1) controls any property of another person with the intent to deprive that person of the property; (2) converts, makes an unauthorized transfer of an interest in, or without authorization controls any property of another person; (3) obtains real, personal or intangible property or the services of another person by a material misrepresentation with intent to deprive that person of the property or services; (4) comes into control of lost, mislaid or misdelivered property of another person and appropriates that property; (5) controls property of another person knowing or having reason to know that the property was stolen; (6) obtains services or parts, products or other items related to such services which he knows are available only for compensation without paying or agreeing to pay compensation; (7) takes, destroys, conceals or disposes of property in which another person has a security interest, with intent to defraud that person; (8) commits any act that is declared to be theft by a specific statute; (9) draws or passes a check, and in exchange obtains property or services, if he knows that the check will not be paid when presented; or (10) obtains gasoline or other fuel or automotive products which are available only for compensation without paying or agreeing to pay compensation. (NRS

205.0832) A person who commits theft is guilty of: (1) a misdemeanor, if the value of the property or services involved in the theft is less than \$250; (2) a category C felony if the value of the property or services involved in the theft is \$250 or more but less than \$2,500; or (3) a category B felony, punishable by imprisonment for a minimum term of not less than 1 year and a maximum term of not less than 10 years, if the value of the property or services involved in the theft is \$2,500 or more. (NRS 205.0835)

**Section 1** of this bill provides that a person who participates in an organized retail theft ring is guilty of a category B felony, punishable by imprisonment for: (1) a minimum term of not less than 1 year and a maximum term of not more than 10 years, if the aggregated value of the property or services involved in all thefts committed by the organized retail theft ring during a period of 90 days is at least \$2,500 but less than \$10,000; or (2) a minimum term of not less than 2 years and a maximum term of not more than 15 years, if the aggregated value of the property or services involved in all thefts committed by the organized retail theft ring during a

period of 90 days is \$10,000 or more. Under **section 1**, an organized retail theft ring is defined as three or more persons who associate for the purpose of engaging in the conduct of committing a series of thefts of retail merchandise against more than one merchant in this State or against one merchant but at more than one location of a retail business of the merchant in this State.

- 2 -

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. A person who participates in an organized retail theft ring is guilty of a category B felony and shall be punished by imprisonment in the state prison for:*

*(a) If the aggregated value of the property or services involved in all thefts committed by the organized retail theft ring in this State during a period of 90 days is at least \$2,500 but less than \$10,000, a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.*

*(b) If the aggregated value of the property or services involved in all thefts committed by the organized retail theft ring in this State during a period of 90 days is \$10,000 or more, a minimum term of not less than 2 years and a maximum term of not more than 15 years, and by a fine of not more than \$20,000.*

*2. In addition to any other penalty, the court shall order a person who violates this section to pay restitution.*

*3. For the purposes of this section, in determining the aggregated value of the property or services involved in all thefts committed by an organized retail theft ring in this State during a period of 90 days:*

*(a) The amount involved in a single theft shall be deemed to be the highest value, by any reasonable standard, of the property or services which are obtained; and*

*(b) The amounts involved in all thefts committed by all participants in the organized retail theft ring must be aggregated.*

*4. In any prosecution for a violation of this section, the violation shall be deemed to have been committed and may be prosecuted in any jurisdiction in this State in which any theft committed by any participant in an organized retail theft ring was committed, regardless of whether the defendant was ever physically present in that jurisdiction.*

*5. As used in this section:*

*(a) "Merchant" has the meaning ascribed to it in NRS 597.850.*

*(b) “Organized retail theft ring” means three or more persons who associate for the purpose of engaging in the conduct of committing a series of thefts of retail merchandise against more than one merchant in this State or against one merchant but at*

– 3 –

*more than one location of a retail business of the merchant in this State.*

**Sec. 2.** NRS 205.0821 is hereby amended to read as follows:

205.0821 As used in NRS 205.0821 to 205.0835, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 205.0822 to 205.0831, inclusive, have the meanings ascribed to them in those sections.

**Sec. 3.** NRS 205.0833 is hereby amended to read as follows:

205.0833 1. Conduct denominated theft in NRS 205.0821 to 205.0835, inclusive, *and section 1 of this act* constitutes a single offense embracing the separate offenses commonly known as larceny, receiving or possessing stolen property, embezzlement, obtaining property by false pretenses, issuing a check without sufficient money or credit, and other similar offenses.

2. A criminal charge of theft may be supported by evidence that an act was committed in any manner that constitutes theft pursuant to NRS 205.0821 to 205.0835, inclusive, *and section 1 of this act* notwithstanding the specification of a different manner in the indictment or information, subject to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief if it determines that, in a specific case, strict application of the provisions of this subsection would result in prejudice to the defense by lack of fair notice or by surprise.

**Sec. 4.** NRS 205.0835 is hereby amended to read as follows:

205.0835 1. Unless a greater penalty is imposed by a specific statute [,] *and unless the provisions of section 1 of this act apply under the circumstances*, a person who commits theft in violation of any provision of NRS 205.0821 to 205.0835, inclusive, *and section 1 of this act* shall be punished pursuant to the provisions of this section.

2. If the value of the property or services involved in the theft is less than \$250, the person who committed the theft is guilty of a misdemeanor.

3. If the value of the property or services involved in the theft is \$250 or more but less than \$2,500, the person who committed the theft is guilty of a category C felony and shall be punished as provided in NRS 193.130.

4. If the value of the property or services involved in the theft is \$2,500 or more, the person who committed the theft is guilty of a category B felony and shall be punished by imprisonment in the

state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.

5. In addition to any other penalty, the court shall order the person who committed the theft to pay restitution.

**20 ~~~~~ 07**

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**NORTH CAROLINA 2007**  
**SB 1270**

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

**SESSION LAW 2007-373**  
**SENATE BILL 1270**

AN ACT TO AMEND VARIOUS LARCENY STATUTES AND TO CREATE THE  
CRIMINAL OFFENSES OF ORGANIZED RETAIL THEFT.

The General Assembly of North Carolina enacts:

**SECTION 1.** G. S. 14-71 reads as rewritten:

**"§ 14-71. Receiving stolen goods; goods; receiving or possessing goods represented as stolen.**

(a) If any person shall receive any chattel, property, money, valuable security or other thing whatsoever, the stealing or taking whereof amounts to larceny or a felony, either at common law or by virtue of any statute made or hereafter to be made, such person knowing or having reasonable grounds to believe the same to have been feloniously stolen or taken, he shall be guilty of a Class H felony, and may be indicted and convicted, whether the felon stealing and taking such chattels, property, money, valuable security or other thing, shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and any such receiver may be dealt with, indicted, tried and punished in any county in which he shall have, or shall have had, any such property in his possession or in any county in which the thief may be tried, in the same manner as such receiver may be dealt with, indicted, tried and punished in the county where he actually received such chattel, money, security, or other thing; and such receiver shall be punished as one convicted of larceny.

(b) If a person knowingly receives or possesses property in the custody of a law enforcement agency that was explicitly represented to the person by an agent of the law enforcement agency as stolen, the person is guilty of a Class H felony and may be indicted, tried, and punished in any county in which the person received or possessed the property."

**SECTION 2.** Article 16 of Chapter 14 of the General Statutes is amended is by adding a new section to read:

**"§ 14-72.11. Larceny from a merchant.**

A person is guilty of a Class H felony if the person commits larceny against a merchant under any of the following circumstances:

- (1) If the property taken has a value of more than two hundred dollars (\$200.00), by using an exit door erected and maintained to comply with the requirements of 29 C.F.R. § 1910 Subpart E, upon which door has been placed a notice, sign, or poster providing information about the felony offense and punishment provided under this subsection, to exit the premises of a store.
- (2) By removing, destroying, or deactivating a component of an antishoplifting or inventory control device to prevent the activation of any antishoplifting or inventory control device.
- (3) By affixing a product code created for the purpose of fraudulently obtaining goods or merchandise from a merchant at less than its actual sale price.
- (4) When the property is infant formula valued in excess of one hundred dollars (\$100.00). As used in this subsection, the term "infant formula," has the same meaning as found in 21 U.S.C. § 321(z)."

**SECTION 3.** Chapter 14 of the General Statutes is amended by adding a new article to read:

"Article 16A.

"Organized Retail Theft.

**"§ 14-86.5. Definitions.**

The following definitions apply in this Article:

- (1) "Retail property." – Any new article, product, commodity, item, or component intended to be sold in retail commerce.
- (2) "Retail property fence." – A person or business that buys retail property knowing or believing that retail property is stolen.
- (3) "Theft." – To take possession of, carry away, transfer, or cause to be carried away the retail property of another with the intent to steal the retail property.
- (4) "Value." – The retail value of an item as advertised by the affected retail establishment, to include all applicable taxes.

**"§ 14-86.6. Organized retail theft.**

(a) A person is guilty of a Class H felony if the person:

- (1) Conspires with another person to commit theft of retail property from a retail establishment, with a value exceeding one thousand five hundred dollars (\$1,500) aggregated over a 90-day period, with the intent to sell that retail property for monetary or other gain, and who takes or causes that retail property to be placed in the control of a retail property fence or other person in exchange for consideration.
- (2) Receives or possesses any retail property that has been taken or stolen in violation of subdivision (1) of this subsection while knowing or having reasonable grounds to believe the property is stolen.

(b) Any interest a person has acquired or maintained in violation of this section shall be subject to forfeiture pursuant to the procedures for forfeiture set out in G.S. 18B-504."

**SECTION 4.** This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 2<sup>nd</sup> day of August, 2007.

s/ Beverly E. Perdue  
President of the Senate

s/ Joe Hackney  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 6:10 p.m. this 19<sup>th</sup> day of August, 2007

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**OREGON 2007**  
**SB 331**

74th OREGON LEGISLATIVE ASSEMBLY--2007 Regular Session

NOTE: Matter within { + braces and plus signs + } in an amended section is new. Matter within { - braces and minus signs - } is existing law to be omitted. New sections are within { + braces and plus signs + } .

LC 1110

A-Engrossed

Senate Bill 331  
Ordered by the Senate April 19  
Including Senate Amendments dated April 19

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Oregon Grocery Association)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Creates crime of organized retail theft. Punishes by maximum of 10 years' imprisonment, \$250,000 fine, or both. { + Adds offense to provisions relating to racketeering activity. + }

**A BILL FOR AN ACT**

Relating to organized retail theft; creating new provisions; and amending ORS 166.715.

Be It Enacted by the People of the State of Oregon:

SECTION 1. { + Section 2 of this 2007 Act is added to and made a part of ORS chapter 164. + }

SECTION 2. { + (1) A person commits the crime of organized

retail theft if, acting in concert with another person:

(a) The person violates ORS 164.015 or aids or abets the other person to violate ORS 164.015;

(b) The subject of the theft is merchandise and the merchandise is taken from a mercantile establishment; and

(c) The aggregate value of the merchandise taken within any 90-day period exceeds \$5,000.

(2) As used in this section:

(a) 'Merchandise' has the meaning given that term in ORS 30.870.

(b) 'Mercantile establishment' has the meaning given that term in ORS 30.870.

(3) Organized retail theft is a Class B felony. + }

SECTION 3. ORS 166.715 is amended to read:

166.715. As used in ORS 166.715 to 166.735, unless the context requires otherwise:

(1) 'Documentary material' means any book, paper, document, writing, drawing, graph, chart, photograph, phonograph record, magnetic tape, computer printout, other data compilation from which information can be obtained or from which information can be translated into usable form, or other tangible item.

(2) 'Enterprise' includes any individual, sole proprietorship, partnership, corporation, business trust or other profit or nonprofit legal entity, and includes any union, association or group of individuals associated in fact although not a legal entity, and both illicit and licit enterprises and governmental and nongovernmental entities.

(3) 'Investigative agency' means the Department of Justice or any district attorney.

(4) 'Pattern of racketeering activity' means engaging in at least two incidents of racketeering activity that have the same or similar intents, results, accomplices, victims or methods of commission or otherwise are interrelated by distinguishing characteristics, including a nexus to the same enterprise, and are not isolated incidents, provided at least one of such incidents occurred after November 1, 1981, and that the last of such incidents occurred within five years after a prior incident of racketeering activity. Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct that constitutes an incident of racketeering activity may be used to establish a pattern of racketeering activity without regard to whether the conduct previously has been the subject of a criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted in an acquittal or the adjudication resulted in entry of an order finding the youth

not to be within the jurisdiction of the juvenile court.

(5) 'Person' means any individual or entity capable of holding a legal or beneficial interest in real or personal property.

(6) 'Racketeering activity' includes conduct of a person committed both before and after the person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce or intimidate another person to commit:

(a) Any conduct that constitutes a crime, as defined in ORS 161.515, under any of the following provisions of the Oregon Revised Statutes:

(A) ORS 59.005 to 59.451, 59.660 to 59.830, 59.991 and 59.995, relating to securities;

(B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and perjury;

(C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365, relating to obstructing governmental administration;

(D) ORS 162.405 to 162.425, relating to abuse of public office;

(E) ORS 162.455, relating to interference with legislative operation;

(F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to criminal homicide;

(G) ORS 163.160 to 163.205, relating to assault and related offenses;

(H) ORS 163.225 and 163.235, relating to kidnapping;

(I) ORS 163.275, relating to coercion;

(J) ORS 163.670 to 163.693, relating to sexual conduct of children;

(K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095, 164.125, 164.135, 164.140, 164.215, 164.225 and 164.245 to 164.270 { -, - } { + and section 2 of this 2007 Act, + } relating to theft, burglary, criminal trespass and related offenses;

(L) ORS 164.315 to 164.335, relating to arson and related offenses;

(M) ORS 164.345 to 164.365, relating to criminal mischief;

(N) ORS 164.395 to 164.415, relating to robbery;

(O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful recording or labeling of a recording;

(P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, relating to forgery and related offenses;

(Q) ORS 165.080 to 165.109, relating to business and commercial offenses;

(R) ORS 165.485 to 165.515, 165.540 and 165.555, relating to communication crimes;

(S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275,

166.410, 166.450 and 166.470, relating to firearms and other weapons;

(T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, 167.062 to 167.080, 167.087, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212, 167.355, 167.365, 167.370, 167.428, 167.431 and 167.439, relating to prostitution, obscenity, gambling, computer crimes involving the Oregon State Lottery, animal fighting, forcible recovery of a fighting bird and related offenses;

(U) ORS 171.990, relating to legislative witnesses;

(V) ORS 260.575 and 260.665, relating to election offenses;

(W) ORS 314.075, relating to income tax;

(X) ORS 180.440 (2) and ORS chapter 323, relating to cigarette and tobacco products taxes and the directory developed under ORS 180.425;

(Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance payments, and ORS 411.990 (2) and (3);

(Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;

(AA) ORS 463.995, relating to boxing and wrestling, as defined in ORS 463.015;

(BB) ORS 471.305, 471.360, 471.392 to 471.400, 471.403, 471.404, 471.405, 471.425, 471.442, 471.445, 471.446, 471.485, 471.490 and 471.675, relating to alcoholic liquor, and any of the provisions of ORS chapter 471 relating to licenses issued under the Liquor Control Act;

(CC) ORS 475.005 to 475.285 and 475.840 to 475.980, relating to controlled substances;

(DD) ORS 480.070, 480.210, 480.215, 480.235 and 480.265, relating to explosives;

(EE) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor vehicles;

(FF) ORS 658.452 or 658.991 (2) to (4), relating to farm labor contractors;

(GG) ORS chapter 706, relating to banking law administration;

(HH) ORS chapter 714, relating to branch banking;

(II) ORS chapter 716, relating to mutual savings banks;

(JJ) ORS chapter 723, relating to credit unions;

(KK) ORS chapter 726, relating to pawnbrokers;

(LL) ORS 166.382 and 166.384, relating to destructive devices;

(MM) ORS 165.074;

(NN) ORS 59.840 to 59.980, relating to mortgage bankers and mortgage brokers;

(OO) ORS chapter 496, 497 or 498, relating to wildlife;

(PP) ORS 163.355 to 163.427, relating to sexual offenses;

(QQ) ORS 166.015, relating to riot;

(RR) ORS 166.155 and 166.165, relating to intimidation;  
(SS) ORS chapter 696, relating to real estate and escrow;  
(TT) ORS chapter 704, relating to outfitters and guides;  
(UU) ORS 165.692, relating to making a false claim for health care payment;  
(VV) ORS 162.117, relating to public investment fraud;  
(WW) ORS 164.170 or 164.172;  
(XX) ORS 647.140, 647.145 or 647.150, relating to trademark counterfeiting;  
(YY) ORS 164.877;  
(ZZ) ORS 167.312 and 167.388;  
(AAA) ORS 164.889; or  
(BBB) ORS 165.800.

(b) Any conduct defined as 'racketeering activity' under 18 U.S.C. 1961 (1)(B), (C), (D) and (E).

(7) 'Unlawful debt' means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following:

(A) ORS chapter 462, relating to racing;

(B) ORS 167.108 to 167.164, relating to gambling; or

(C) ORS 82.010 to 82.170, relating to interest and usury.

(b) In gambling activity in violation of federal law or in the business of lending money at a rate usurious under federal or state law.

(8) Notwithstanding contrary provisions in ORS 174.060, when this section references a statute in the Oregon Revised Statutes that is substantially different in the nature of its essential provisions from what the statute was when this section was enacted, the reference shall extend to and include amendments to the statute.

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**TEXAS 2007**  
**HB 3584**

H.B. No. 3584

AN ACT

relating to the prosecution and punishment of certain theft offenses.

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

SECTION 1. Chapter 31, Penal Code, is amended by adding Section 31.16 to read as follows:

Sec. 31.16. ORGANIZED RETAIL THEFT. (a) In this section, "retail merchandise" means one or more items of tangible personal property displayed, held, stored, or offered for sale in a retail establishment.

(b) A person commits an offense if the person intentionally conducts, promotes, or facilitates an activity in which the person receives, possesses, conceals, stores, barter, sells, or disposes of a total value of not less than \$1,500 of:

(1) stolen retail merchandise; or

(2) merchandise explicitly represented to the person as being stolen retail merchandise.

(c) An offense under this section is:

(1) a state jail felony if the total value of the merchandise involved in the activity is \$1,500 or more but less than \$20,000;

(2) a felony of the third degree if the total value of the merchandise involved in the activity is \$20,000 or more but less than \$100,000;

(3) a felony of the second degree if the total value of the merchandise involved in the activity is \$100,000 or more but less than \$200,000; or

(4) a felony of the first degree if the total value of the merchandise involved in the activity is \$200,000 or more.

(d) An offense described for purposes of punishment by Subsections (c)(1)-(3) is increased to the next higher category of offense if it is shown on the trial of the offense that the person organized, supervised, financed, or managed one or more other persons engaged in an activity described by Subsection (b).

(e) For the purposes of punishment, an offense under this section or an offense described by Section 31.03(e)(1) or (2) is increased to the next highest category of offense if it is shown at the trial of the offense that the defendant, with the intent that a distraction from the commission of the offense be created, intentionally, knowingly, or recklessly caused an alarm to sound or otherwise become activated during the commission of the offense.

SECTION 2. Article 13.08, Code of Criminal Procedure, is amended to read as follows:

Art. 13.08. THEFT; ORGANIZED RETAIL THEFT. (a) Where property is stolen in one county and removed by the offender to another county, the offender may be prosecuted either in the county where he took the property or in any other county through or into which he may have removed the same.

(b) An offense under Section 31.16, Penal Code, may be prosecuted in any county in which an underlying theft could have been prosecuted as a separate offense.

SECTION 3. The change in law made by this Act in adding Section 31.16(e), Penal Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

SECTION 4. This Act takes effect September 1, 2007.

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Utah 2007 HB 4

H.B. 4 Enrolled

1

**ORGANIZED RETAIL THEFT**

2

2007 GENERAL SESSION

3

STATE OF UTAH

4

**Chief Sponsor: Paul Ray**

5

Senate Sponsor: Gregory S. Bell

6

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Criminal Code regarding conduct that constitutes a  
pattern of  
10 unlawful activity.

11 **Highlighted Provisions:**

12 This bill:  
13 . includes the criminal offense of retail theft in the definition of a  
pattern of unlawful  
14 activity; and  
15 . provides that persons found guilty of a pattern of unlawful activity  
may be ordered  
16 to pay restitution for property obtained through a pattern of unlawful  
activity.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **76-10-1602**, as last amended by Chapters 104, 140 and 319, Laws of  
Utah 2004

24 **76-10-1603.5**, as last amended by Chapter 185, Laws of Utah 2002

25

26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **76-10-1602** is amended to read:

28 **76-10-1602. Definitions.**

29 As used in this part:

30

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation,  
31 business trust, association, or other legal entity, and any union or group of  
individuals  
32 associated in fact although not a legal entity, and includes illicit as well as  
licit entities.

33 (2) "Pattern of unlawful activity" means engaging in conduct which  
constitutes the  
34 commission of at least three episodes of unlawful activity, which episodes  
are not isolated, but  
35 have the same or similar purposes, results, participants, victims, or  
methods of commission, or  
36 otherwise are interrelated by distinguishing characteristics. Taken together,  
the episodes shall  
37 demonstrate continuing unlawful conduct and be related either to each  
other or to the  
38 enterprise. At least one of the episodes comprising a pattern of unlawful  
activity shall have  
39 occurred after July 31, 1981. The most recent act constituting part of a  
pattern of unlawful  
40 activity as defined by this part shall have occurred within five years of the  
commission of the  
41 next preceding act alleged as part of the pattern.

42 (3) "Person" includes any individual or entity capable of holding a legal  
or beneficial  
43 interest in property, including state, county, and local governmental  
entities.

44 (4) "Unlawful activity" means to directly engage in conduct or to solicit,  
request,  
45 command, encourage, or intentionally aid another person to engage in  
conduct which would  
46 constitute any offense described by the following crimes or categories of  
crimes, or to attempt  
47 or conspire to engage in an act which would constitute any of those  
offenses, regardless of  
48 whether the act is in fact charged or indicted by any authority or is  
classified as a misdemeanor  
49 or a felony:

50 (a) any act prohibited by the criminal provisions of Title 13, Chapter 10,  
Unauthorized

51 Recording Practices Act;

52 (b) any act prohibited by the criminal provisions of Title 19,  
Environmental Quality

53 Code, Sections 19-1-101 through 19-7-109 ;  
 54 (c) taking, destroying, or possessing wildlife or parts of wildlife for the  
 primary  
 55 purpose of sale, trade, or other pecuniary gain, in violation of Title 23,  
 Chapter 13, Wildlife  
 56 Resources Code of Utah, or Section 23-20-4 ;  
 57 (d) false claims for medical benefits, kickbacks, and any other act  
 prohibited by False  
 58  
 Claims Act, Sections 26-20-1 through 26-20-12 ;  
 59 (e) any act prohibited by the criminal provisions of Title 32A, Chapter  
 12, Criminal  
 60 Offenses;  
 61 (f) any act prohibited by the criminal provisions of Title 57, Chapter 11,  
 Utah Uniform  
 62 Land Sales Practices Act;  
 63 (g) any act prohibited by the criminal provisions of Title 58, Chapter 37,  
 Utah  
 64 Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled  
 Substances Act,  
 65 Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title  
 58, Chapter 37d,  
 66 Clandestine Drug Lab Act;  
 67 (h) any act prohibited by the criminal provisions of Title 61, Chapter 1,  
 Utah Uniform  
 68 Securities Act;  
 69 (i) any act prohibited by the criminal provisions of Title 63, Chapter 56,  
 Utah  
 70 Procurement Code;  
 71 (j) assault or aggravated assault, Sections 76-5-102 and 76-5-103 ;  
 72 (k) a terroristic threat, Section 76-5-107 ;  
 73 (l) criminal homicide, Sections 76-5-201 , 76-5-202 , and 76-5-203 ;  
 74 (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-  
 302 ;  
 75 (n) sexual exploitation of a minor, Section 76-5a-3 ;  
 76 (o) arson or aggravated arson, Sections 76-6-102 and 76-6-103 ;  
 77 (p) causing a catastrophe, Section 76-6-105 ;  
 78 (q) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203 ;  
 79 (r) burglary of a vehicle, Section 76-6-204 ;  
 80 (s) manufacture or possession of an instrument for burglary or theft,  
 Section 76-6-205 ;  
 81 (t) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302 ;  
 82 (u) theft, Section 76-6-404 ;  
 83 (v) theft by deception, Section 76-6-405 ;  
 84 (w) theft by extortion, Section 76-6-406 ;  
 85 (x) receiving stolen property, Section 76-6-408 ;

86  
(y) theft of services, Section 76-6-409 ;  
87 (z) forgery, Section 76-6-501 ;  
88 (aa) fraudulent use of a credit card, Sections 76-6-506.1 , 76-6-506.2 ,  
and 76-6-506.4 ;  
89 (bb) deceptive business practices, Section 76-6-507 ;  
90 (cc) bribery or receiving bribe by person in the business of selection,  
appraisal, or  
91 criticism of goods, Section 76-6-508 ;  
92 (dd) bribery of a labor official, Section 76-6-509 ;  
93 (ee) defrauding creditors, Section 76-6-511 ;  
94 (ff) acceptance of deposit by insolvent financial institution, Section 76-  
6-512 ;  
95 (gg) unlawful dealing with property by fiduciary, Section 76-6-513 ;  
96 (hh) bribery or threat to influence contest, Section 76-6-514 ;  
97 (ii) making a false credit report, Section 76-6-517 ;  
98 (jj) criminal simulation, Section 76-6-518 ;  
99 (kk) criminal usury, Section 76-6-520 ;  
100 (ll) fraudulent insurance act, Section 76-6-521 ;  
101 *(mm) retail theft, Section 76-6-602 ;*  
102 [~~(mm)~~] *(nn)* computer crimes, Section 76-6-703 ;  
103 [~~(nn)~~] *(oo)* identity fraud, Section 76-6-1102 ;  
104 [~~(oo)~~] *(pp)* sale of a child, Section 76-7-203 ;  
105 [~~(pp)~~] *(qq)* bribery to influence official or political actions, Section 76-  
8-103 ;  
106 [~~(qq)~~] *(rr)* threats to influence official or political action, Section 76-8-  
104 ;  
107 [~~(rr)~~] *(ss)* receiving bribe or bribery by public servant, Section 76-8-105  
;  
108 [~~(ss)~~] *(tt)* receiving bribe or bribery for endorsement of person as public  
servant,  
109 Section 76-8-106 ;  
110 [~~(tt)~~] *(uu)* official misconduct, Sections 76-8-201 and 76-8-202 ;  
111 [~~(uu)~~] *(vv)* obstruction of justice, Section 76-8-306 ;  
112 [~~(vv)~~] *(ww)* acceptance of bribe or bribery to prevent criminal  
prosecution, Section  
113 76-8-308 ;  
114  
115 [~~(ww)~~] *(xx)* false or inconsistent material statements, Section 76-8-502 ;  
116 [~~(xx)~~] *(yy)* false or inconsistent statements, Section 76-8-503 ;  
117 [~~(yy)~~] *(zz)* written false statements, Section 76-8-504 ;  
118 [~~(zz)~~] *(aaa)* tampering with a witness or soliciting or receiving a bribe,  
Section  
119 76-8-508 ;  
120 [~~(aaa)~~] *(bbb)* retaliation against a witness, victim, or informant, Section  
76-8-508.3 ;

120        [~~(bbb)~~] (ccc) extortion or bribery to dismiss criminal proceeding,  
Section 76-8-509 ;  
121        [~~(eee)~~] (ddd) public assistance fraud in violation of Section 76-8-1203 ,  
76-8-1204 , or  
122        76-8-1205 ;  
123        [~~(ddd)~~] (eee) unemployment insurance fraud, Section 76-8-1301 ;  
124        [~~(eee)~~] (fff) intentionally or knowingly causing one animal to fight with  
another,  
125        Subsection 76-9-301 (1)(f);  
126        [~~(fff)~~] (ggg) possession, use, or removal of explosives, chemical, or  
incendiary devices  
127        or parts, Section 76-10-306 ;  
128        [~~(ggg)~~] (hhh) delivery to common carrier, mailing, or placement on  
premises of an  
129        incendiary device, Section 76-10-307 ;  
130        [~~(hhh)~~] (iii) possession of a deadly weapon with intent to assault,  
Section 76-10-507 ;  
131        [~~(iii)~~] (jjj) unlawful marking of pistol or revolver, Section 76-10-521 ;  
132        [~~(jjj)~~] (kkk) alteration of number or mark on pistol or revolver, Section  
76-10-522 ;  
133        [~~(kkk)~~] (lll) forging or counterfeiting trademarks, trade name, or trade  
device, Section  
134        76-10-1002 ;  
135        [~~(lll)~~] (mmm) selling goods under counterfeited trademark, trade name,  
or trade  
136        devices, Section 76-10-1003 ;  
137        [~~(mmm)~~] (nnn) sales in containers bearing registered trademark of  
substituted articles,  
138        Section 76-10-1004 ;  
139        [~~(nnn)~~] (ooo) selling or dealing with article bearing registered  
trademark or service  
140        mark with intent to defraud, Section 76-10-1006 ;  
141        [~~(ooo)~~] (ppp) gambling, Section 76-10-1102 ;  
142  
143        [~~(ppp)~~] (qqq) gambling fraud, Section 76-10-1103 ;  
144        [~~(qqq)~~] (rrr) gambling promotion, Section 76-10-1104 ;  
145        [~~(rrr)~~] (sss) possessing a gambling device or record, Section 76-10-  
1105 ;  
146        [~~(sss)~~] (ttt) confidence game, Section 76-10-1109 ;  
147        [~~(ttt)~~] (uuu) distributing pornographic material, Section 76-10-1204 ;  
148        [~~(uuu)~~] (vvv) inducing acceptance of pornographic material, Section 76-  
10-1205 ;  
149        [~~(vvv)~~] (www) dealing in harmful material to a minor, Section 76-10-  
1206 ;  
150        [~~(www)~~] (xxx) distribution of pornographic films, Section 76-10-1222 ;  
151        [~~(xxx)~~] (yyy) indecent public displays, Section 76-10-1228 ;

151 [~~(yyy)~~] (zzz) prostitution, Section 76-10-1302 ;  
152 [~~(zzz)~~] (aaaa) aiding prostitution, Section 76-10-1304 ;  
153 [~~(aaaa)~~] (bbbb) exploiting prostitution, Section 76-10-1305 ;  
154 [~~(bbb)~~] (cccc) aggravated exploitation of prostitution, Section 76-10-  
1306 ;  
155 [~~(eeee)~~] (dddd) communications fraud, Section 76-10-1801 ;  
156 [~~(ddd)~~] (eeee) any act prohibited by the criminal provisions of Title  
76, Chapter 10,  
157 Part 19, Money Laundering and Currency Transaction Reporting Act;  
158 [~~(eeee)~~] (ffff) any act prohibited by the criminal provisions of the laws  
governing  
159 taxation in this state; and  
160 [~~(ffff)~~] (gggg) any act illegal under the laws of the United States and  
enumerated in  
161 Title 18, Section 1961 (1)(B), (C), and (D) of the United States Code.  
162 Section 2. Section **76-10-1603.5** is amended to read:  
163 **76-10-1603.5. Violation a felony -- Costs -- Forfeiture -- Fines --  
Divestiture --  
164 Restrictions -- Dissolution or reorganization -- Prior restraint.**  
165 (1) A person who violates any provision of Section 76-10-1603 is  
guilty of a second  
166 degree felony. In addition to penalties prescribed by law, the court may  
order the person found  
167 guilty of the felony to pay to the state, if the attorney general brought the  
action, or to the  
168 county, if the county attorney or district attorney brought the action, the  
costs of investigating  
169 and prosecuting the offense and the costs of securing the forfeitures  
provided for in this  
170  
section. The person shall forfeit to the Uniform School Fund, as provided in Section  
171 53A-16-101 :  
172 (a) any interest acquired or maintained in violation of any provision of  
Section  
173 76-10-1603 ;  
174 (b) any interest in, security of, claim against, or property or contractual  
right of any  
175 kind affording a source of influence over any enterprise which the person  
has established,  
176 operated, controlled, conducted, or participated in the conduct of in  
violation of Section  
177 76-10-1603 ; and  
178 (c) any property constituting or derived from the net proceeds which  
the person  
179 obtained, directly or indirectly, from the conduct constituting the pattern  
of unlawful activity or

180 from any act or conduct constituting the pattern of unlawful activity  
proven as part of the  
181 violation of any provision of Section 76-10-1603 .  
182 (2) If a violation of Section 76-10-1603 is based on a pattern of  
unlawful activity  
183 consisting of acts or conduct in violation of Section 76-10-1204 , 76-10-  
1205 , 76-10-1206 , or  
184 76-10-1222 , the property subject to forfeiture under this section is limited  
to property, the  
185 seizure or forfeiture of which would not constitute a prior restraint on the  
exercise of an  
186 affected party's rights under the First Amendment to the Constitution of  
the United States or  
187 Article I, Sec. 15 of the Utah Constitution, or would not otherwise  
unlawfully interfere with the  
188 exercise of those rights.  
189 (3) In lieu of a fine otherwise authorized by law for a violation of  
Section 76-10-1603 ,  
190 a defendant who derives net proceeds from a conduct prohibited by  
Section 76-10-1603 may be  
191 fined not more than twice the amount of the net proceeds.  
192 (4) Property subject to criminal forfeiture in accord with the procedures  
and  
193 substantive protections of Title 24, Chapter 1, Utah Uniform Forfeiture  
Procedures Act:  
194 (a) includes:  
195 (i) real property, including things growing on, affixed to, and found in  
land; and  
196 (ii) tangible and intangible personal property including money, rights,  
privileges,  
197 interests, claims, and securities of any kind; but  
198  
(b) does not include property exchanged or to be exchanged for services rendered in  
199 connection with the defense of the charges or any related criminal case.  
200 (5) Upon conviction for violating any provision of Section 76-10-1603  
, and in addition  
201 to any penalty prescribed by law and in addition to any forfeitures  
provided for in this section,  
202 the court may do any or all of the following:  
203 (a) order restitution to any victim or rightful owner of property  
obtained, directly or  
204 indirectly, from:  
205 (i) the conduct constituting the pattern of unlawful activity; or  
206 (ii) any act or conduct constituting the pattern of unlawful activity that  
is proven as part  
207 of the violation of any provision of Section 76-10-1603 ;

208        [~~(a)~~] (b) order the person to divest himself of any interest in or any  
control, direct or  
209        indirect, of any enterprise;  
210        [~~(b)~~] (c) impose reasonable restrictions on the future activities or  
investments of any  
211        person, including prohibiting the person from engaging in the same type  
of endeavor as the  
212        enterprise engaged in, to the extent the Utah Constitution and the  
Constitution of the United  
213        States permit; or  
214        [~~(c)~~] (d) order the dissolution or reorganization of any enterprise.  
215        (6) If a violation of Section 76-10-1603 is based on a pattern of  
unlawful activity  
216        consisting of acts or conduct in violation of Section 76-10-1204 , 76-10-  
1205 , 76-10-1206 , or  
217        76-10-1222 , the court may not enter any order that would amount to a  
prior restraint on the  
218        exercise of an affected party's rights under the First Amendment to the  
Constitution of the  
219        United States or Article I, Section 15, Utah Constitution.  
220        (7) All rights, title, and interest in forfeitable property described in  
Subsections (1) and  
221        (2) vest in the state treasurer, on behalf of the Uniform School Fund, upon  
the commission of  
222        the act or conduct giving rise to the forfeiture under this section.  
223        (8) For purposes of this section, the "net proceeds" of an offense means  
property  
224        acquired as a result of the violation minus the direct costs of acquiring the  
property.

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**Delaware: HOUSE BILL NO. 458**

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO RETAIL AND WHOLESALE MERCHANTS' LICENSE REQUIREMENTS AND TAXES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend Chapter 29 of Title 30 of the Delaware Code by adding a new “§ 2911” to read as follows:

“§ 2911. Retail Crime Unit, Retail Crime Fund and Fee.

- (a) There is hereby established within the Department of Justice a unit, ‘The Retail Crime Unit’, dedicated to the investigation and prosecution of retail crime.
- (b) There shall be a Deputy Attorney General assigned to the ‘Retail Crime Unit’ and charged with the investigation and prosecution of retail crime.
- (c) In addition to any fees that may be applicable under this Chapter, a \$15 fee shall be applied annually to each license holder under § 2905 and § 2908 of this Chapter.
- (d) Funds generated by this fee shall be deposited in the State Treasury to the credit of the ‘Retail Crime Fund’.
- (e) All funds collected pursuant to this Section, and all funds allocated to the ‘Retail Crime Fund’ shall be used to pay for all necessary expenses and operational costs associated with implementing the provisions of this Section as such expenditures are authorized by the General Assembly in the annual operating budget.”.

Section 2. The effective date of this Bill shall be 60 days after enactment.

**SYNOPSIS**

This Bill establishes the ‘Retail Crime Unit’ to investigate and prosecute retail crime. The ‘Retail Crime Unit’ shall be funded by the ‘Retail Crime Fund’, which is supported by an annual \$15 fee on all general retail licenses and grocery store licenses. The Retail Crime Fund shall be used to further investigations and prosecutions of retail crime. The General Assembly shall authorize expenditures from this fund in its annual operating budget.

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## **GEORGIA HB 1346:**

08 HB1346/AP

House Bill 1346 (AS PASSED HOUSE AND SENATE)

By: Representatives O`Neal of the 146th and Talton of the 145th

A BILL TO BE ENTITLED  
AN ACT

To amend Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft, so as to create the offense of retail property fencing; to provide for definitions; to provide for forfeiture; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

### SECTION 1.

Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft, is amended by adding a new Code section to read as follows:

"16-8-5.2.

(a) As used in this Code section, the term:

- (1) 'Retail property' means any new article, product, commodity, item, or component intended to be sold in retail commerce.
- (2) 'Retail property fence' means a person or entity that buys, sells, transfers, or possesses with the intent to sell or transfer retail property that such person knows or should have known was stolen.
- (3) 'Value' means the retail value of the item as stated or advertised by the affected retail establishment, to include applicable taxes.

(b) A person commits the offense of retail property fencing when such persons receives, disposes of, or retains retail property which was unlawfully taken or shoplifted over a period not to exceed 180 days with the intent to:

- (1) Transfer, sell, or distribute such retail property to a retail property fence; or
- (2) Attempt or cause such retail property to be offered for sale, transfer, or distribution for money or other things of value.

(c) Whoever knowingly receives, possesses, conceals, stores, barter, sells, or disposes of retail property with the intent to distribute any retail property which is known or should be known to have been taken or stolen in violation of this subsection with the intent to distribute the proceeds, or to otherwise promote, manage, carry on, or facilitate an offense described in this subsection, shall have committed the offense of retail property fencing.

(d)(1) It shall not be necessary in any prosecution under this Code section for the state to prove that any intended profit was actually realized. The trier of fact may infer that a

particular scheme or course of conduct was undertaken for profit from all of the attending circumstances.

(2) It shall not be a defense to violating this Code section that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused as being obtained through the commission of a theft.

(e) Any property constituting proceeds derived from or realized through a violation of this Code section shall be subject to forfeiture to the State of Georgia except that no property of any owner shall be forfeited under this subsection, to the extent of the interest of such owner, by reason of an act or omission established by such owner to have been committed or omitted without knowledge or consent of such owner. The procedure for forfeiture and disposition of forfeited property under this subsection shall be as provided for under Code Section 16-13-49.

(f) Each violation of this Code section shall constitute a separate offense."

## SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.

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### **MARYLAND HB 282:**

AN ACT concerning

Criminal Law – Possessing Stolen Property

FOR the purpose of providing that in a prosecution for theft by possessing stolen property, it is not a defense that the property was obtained by certain means provided by law enforcement as part of an investigation under certain circumstances; and generally relating to theft by possessing stolen property.

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 7–104(c)

Annotated Code of Maryland

(2002 Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

2 HOUSE BILL 282

Article – Criminal Law

7–104.

(c) (1) A person may not possess stolen personal property knowing that it has been stolen, or believing that it probably has been stolen, if the person:

(i) intends to deprive the owner of the property;

(ii) willfully or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(iii) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(2) In the case of a person in the business of buying or selling goods, the knowledge required under this subsection may be inferred if:

(i) the person possesses or exerts control over property stolen from more than one person on separate occasions;

(ii) during the year preceding the criminal possession charged,

the person has acquired stolen property in a separate transaction; or  
(iii) being in the business of buying or selling property of the sort  
possessed, the person acquired it for a consideration that the person knew was far  
below a reasonable value.

(3) In a prosecution for theft by possession of stolen property under  
this subsection, it is not a defense that:

(i) the person who stole the property has not been convicted,  
apprehended, or identified;

(ii) the defendant stole or participated in the stealing of the  
property; [or]

(III) THE PROPERTY WAS OBTAINED BY MEANS OTHER THAN  
THE COMMISSION OF THEFT PROVIDED BY LAW ENFORCEMENT AS PART  
OF AN  
INVESTIGATION, IF THE PROPERTY WAS EXPLICITLY DESCRIBED TO THE  
DEFENDANT AS BEING OBTAINED THROUGH THE COMMISSION OF THEFT;  
OR

[(iii)](IV) the stealing of the property did not occur in the State.

HOUSE BILL 282 3

(4) Unless the person who criminally possesses stolen property  
participated in the stealing, the person who criminally possesses stolen property and a  
person who has stolen the property are not accomplices in theft for the purpose of any  
rule of evidence requiring corroboration of the testimony of an accomplice.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
October 1, 2008.

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## Maryland SB 387:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.

\*sb0387\*

SENATE BILL 387

E1 8lr2102

HB 671/05 – JUD CF HB 282

By: Senators Stone, Astle, DeGrange, Dyson, Exum, Glassman, Haines, King, and Klausmeier

Introduced and read first time: January 30, 2008

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 7, 2008

CHAPTER \_\_\_\_\_

AN ACT concerning

Criminal Law – Possessing Stolen Property

FOR the purpose of providing that in a prosecution for theft by possessing stolen property, it is not a defense that the property was obtained by certain means provided by law enforcement as part of an investigation under certain circumstances; and generally relating to theft by possessing stolen property.

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 7–104(c)

Annotated Code of Maryland

(2002 Volume and 2007 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Criminal Law

7–104.

(c) (1) A person may not possess stolen personal property knowing that it has been stolen, or believing that it probably has been stolen, if the person:

(i) intends to deprive the owner of the property;

2 SENATE BILL 387

(ii) willfully or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(iii) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(2) In the case of a person in the business of buying or selling goods, the knowledge required under this subsection may be inferred if:

- (i) the person possesses or exerts control over property stolen from more than one person on separate occasions;
- (ii) during the year preceding the criminal possession charged, the person has acquired stolen property in a separate transaction; or
- (iii) being in the business of buying or selling property of the sort possessed, the person acquired it for a consideration that the person knew was far below a reasonable value.

(3) In a prosecution for theft by possession of stolen property under this subsection, it is not a defense that:

- (i) the person who stole the property has not been convicted, apprehended, or identified;
- (ii) the defendant stole or participated in the stealing of the property; [or]

(III) THE PROPERTY WAS OBTAINED BY MEANS OTHER THAN THE COMMISSION OF THEFT PROVIDED BY LAW ENFORCEMENT AS PART OF AN INVESTIGATION, IF THE PROPERTY WAS EXPLICITLY DESCRIBED TO THE DEFENDANT AS BEING OBTAINED THROUGH THE COMMISSION OF THEFT;  
OR

[(iii)](IV) the stealing of the property did not occur in the State.

(4) Unless the person who criminally possesses stolen property participated in the stealing, the person who criminally possesses stolen property and a person who has stolen the property are not accomplices in theft for the purpose of any rule of evidence requiring corroboration of the testimony of an accomplice.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

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**Virginia HB 159:**  
**CHAPTER 578**

An Act to amend and reenact § 18.2-108 of the Code of Virginia, relating to receiving stolen goods; penalty.

[H 159]

Approved March 12, 2008

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-108 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-108. Receiving, etc., stolen goods.

A. If any person buy or receive buys or receives from another person, or aid aids in concealing, any stolen goods or other thing, knowing the same to have been stolen, he shall be deemed guilty of larceny thereof, and may be proceeded against, although the principal offender be is not convicted.

B. If any person buys or receives any goods or other thing, used in the course of a criminal investigation by law enforcement that such person believes to have been stolen, he shall be deemed guilty of larceny thereof.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.