

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 384
PROPOSED COMMITTEE SUBSTITUTE H384-PCS10209-SA-8

Short Title: Increase Penalties/Organized Retail Theft.

(Public)

Sponsors:

Referred to:

March 20, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO STRENGTHEN THE ORGANIZED RETAIL THEFT LAWS.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 14-72.11 reads as rewritten:

5 "**§ 14-72.11. Larceny from a merchant.**

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

- 8 (1) If the property taken has a value of more than two hundred dollars
9 (\$200.00), by using an exit door erected and maintained to comply with the
10 requirements of 29 C.F.R. § 1910.36 and 29 C.F.R. § 1910.37 ~~upon which~~
11 ~~door has been placed a notice, sign, or poster providing information about~~
12 ~~the felony offense and punishment provided under this subsection,~~ to exit the
13 premises of a store.
- 14 (2) By removing, destroying, or deactivating a component of an antishoplifting
15 or inventory control device to prevent the activation of any antishoplifting or
16 inventory control device.
- 17 (3) By affixing a product code created for the purpose of fraudulently obtaining
18 goods or merchandise from a merchant at less than its actual sale price.
- 19 (4) When the property is infant formula valued in excess of one hundred dollars
20 (\$100.00). As used in this subsection, the term "infant formula," has the
21 same meaning as found in 21 U.S.C. § 321(z).
- 22 (5) By exchanging property, knowing or having reasonable grounds to believe
23 the property is stolen, for cash, a gift card, a merchandise card, or some other
24 item of value.
- 25 (6) By exchanging property, knowing or having reasonable grounds to believe
26 the property is stolen, for cash, a gift card, a merchandise card, or some other
27 item of value and utilizing fictitious identification to prevent the merchant
28 from properly identifying the person seeking to exchange the property."

29 SECTION 2. G.S. 14-86.6 reads as rewritten:

30 "**§ 14-86.6. Organized retail theft.**

31 (a) A person is guilty of a Class H felony if the ~~person~~person does either of the
32 following:

- 33 (1) Conspires with another person to commit theft of retail property from retail
34 establishments, with a value exceeding one thousand five hundred dollars
35 (\$1,500) aggregated over a 90-day period, with the intent to sell that retail
36 property for monetary or other gain, and who takes or causes that retail



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- 1 property to be placed in the control of a retail property fence or other person
2 in exchange for consideration.
- 3 (2) Receives or possesses any retail property that has been taken or stolen in
4 violation of subdivision (1) of this subsection while knowing or having
5 reasonable grounds to believe the property is stolen.
- 6 (a1) A person is guilty of a Class G felony if the person does either of the following:
- 7 (1) Conspires with another person to commit theft of retail property from retail
8 establishments, with a value exceeding twenty thousand dollars (\$20,000)
9 aggregated over a 90-day period, with the intent to sell that retail property
10 for monetary or other gain, and who takes or causes that retail property to be
11 placed in the control of a retail property fence or other person in exchange
12 for consideration.
- 13 (2) Acts as leader of two or more other persons associated for the purpose of
14 engaging in conduct in violation of this section, if the person conspires with
15 others as an organizer, supervisor, financier, or manager to engage for profit
16 in a scheme or course of conduct to effectuate the transfer or sale of property
17 stolen from a merchant.
- 18 (b) Any interest a person has acquired or maintained in violation of this section shall be
19 subject to forfeiture pursuant to the procedures for forfeiture set out in G.S. 18B-504.
- 20 (c) Thefts of retail property occurring in more than one county may be aggregated in
21 alleging a violation of this section. Venue for prosecution of a violation of this section is
22 appropriate in any county in which an aggregated theft of retail property occurred."

23 **SECTION 3.** G.S. 66-387 reads as rewritten:

24 **"§ 66-387. Definitions.**

25 The following definitions apply in this Part:

- 26 (1) Cash. – Lawful currency of the United States.
- 27 (2) Currency converter. – A person engaged in the business of purchasing ~~goods~~
28 goods, including a gift card or merchandise card of any value not issued by
29 the person, from the public for cash at a permanently located retail store
30 store, an itinerant merchant as defined in G.S. 66-250(1), or a Web site
31 located in North Carolina who holds himself or herself out to the public by
32 signs, advertising, or other methods as engaging in that business. The term
33 does not include any of the following:
- 34 a. ~~Pawnbrokers.~~Pawnbrokers, except with regard to the purchase of a
35 gift card or merchandise card.
- 36 b. Persons whose goods purchases are made directly from
37 manufacturers or wholesalers for their inventories.
- 38 c. Precious metals dealers, to the extent that their transactions are
39 regulated under Part 2 of this Article.
- 40 d. Purchases by persons primarily in the business of obtaining from the
41 public, either by purchase or exchange, used clothing, children's
42 furniture, and children's products, ~~provided~~provided (i) the amount
43 paid for the individual item purchased is less than fifty dollars
44 (~~\$50.00~~)-(\$50.00) and (ii) the individual item purchased is not a gift
45 card or merchandise card of any value.
- 46 e. Purchases by persons primarily in the business of obtaining from the
47 public, either by purchase or exchange, sporting goods and sporting
48 equipment, ~~provided~~provided (i) the amount paid for the individual
49 item purchased is less than fifty dollars
50 (~~\$50.00~~)-(\$50.00) and (ii) the
51 individual item purchased is not a gift card or merchandise card of
any value.

- 1 (3) Pawn or pawn transaction. – A written bailment of personal property as
2 security for a debt, redeemable on certain terms within 180 days, unless
3 renewed, and with an implied power of sale on default.
- 4 (4) Pawnbroker. – A person engaged in the business of lending money on the
5 security of pledged goods and who may also purchase merchandise for
6 resale from dealers and traders.
- 7 (5) Pawnshop. – The location at which, or premises in which, a pawnbroker
8 regularly conducts business.
- 9 (6) Person. – Any individual, corporation, joint venture, association, or any
10 other legal entity, however organized.
- 11 (7) Pledged goods. – Tangible personal property which is deposited with, or
12 otherwise actually delivered into, the possession of a pawnbroker in the
13 course of his business in connection with a pawn transaction.
- 14 (8) Purchase. – An item purchased from an individual for the purpose of resale
15 whereby the seller no longer has a vested interest in the item."

16 **SECTION 4.** This act becomes effective December 1, 2017, and applies to
17 offenses committed on or after that date.