

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 384
Committee Substitute Favorable 4/6/17
PROPOSED SENATE COMMITTEE SUBSTITUTE H384-PCS40605-TT-32

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~~ By taking property that has a value of more than two
9 hundred dollars (\$200.00), by using an exit door erected and maintained to
10 comply with the requirements of 29 C.F.R. § 1910.36 and 29 C.F.R. §
11 1910.37 upon which door has been placed a notice, sign, or poster providing
12 information about the felony offense and punishment provided under this
13 subsection, 29 C.F.R. § 1910.37, to exit the 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 for cash, a gift card, a merchandise card, or some
23 other item of value, knowing or having reasonable grounds to believe the
24 property is stolen."

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

26 "§ 14-86.6. Organized retail theft.

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

- 29 (1) Conspires with another person to commit theft of retail property from retail
30 establishments, with a value exceeding one thousand five hundred dollars
31 (\$1,500) aggregated over a 90-day period, with the intent to sell that retail
32 property for monetary or other gain, and who takes or causes that retail
33 property to be placed in the control of a retail property fence or other person
34 in exchange for consideration.



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- 1 (2) Receives or possesses any retail property that has been taken or stolen in
 2 violation of subdivision (1) of this subsection while knowing or having
 3 reasonable grounds to believe the property is stolen.
- 4 (a1) A person is guilty of a Class G felony if the person does either of the following:
- 5 (1) Conspires with another person to commit theft of retail property from one or
 6 more retail establishments, with a value exceeding twenty thousand dollars
 7 (\$20,000) aggregated over a 90-day period, with the intent to sell that retail
 8 property for monetary or other gain, and who takes or causes that retail
 9 property to be placed in the control of a retail property fence or other person
 10 in exchange for consideration.
- 11 (2) Conspires with two or more other persons as an organizer, supervisor,
 12 financier, leader, or manager to engage for profit in a scheme or course of
 13 conduct to effectuate the transfer or sale of property stolen from a merchant
 14 in violation of this section.
- 15 (b) Any interest a person has acquired or maintained in violation of this section shall be
 16 subject to forfeiture pursuant to the procedures for forfeiture set out in G.S. 18B-504.
- 17 (c) Thefts of retail property occurring in more than one county may be aggregated into
 18 an alleged violation of this section. Each county where a part of the charged offense occurs has
 19 concurrent venue as described in G.S. 15A-132."

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

21 "**§ 66-387. Definitions.**

22 The following definitions apply in this Part:

- 23 (1) Cash. – Lawful currency of the United States.
- 24 (2) Currency converter. – ~~A person~~ Either (i) a person engaged in the business of
 25 purchasing goods from the public for cash at a permanently located retail
 26 store or (ii) an itinerant merchant as defined in G.S. 66-250(1) who holds
 27 himself or herself out to the public by signs, advertising, or other methods as
 28 engaging in that business. The term does not include any of the following:
- 29 a. ~~Pawnbrokers.~~ Pawnbrokers, except with regard to the purchase of a
 30 gift card or merchandise card.
- 31 b. Persons whose goods purchases are made directly from
 32 manufacturers or wholesalers for their inventories.
- 33 c. Precious metals dealers, to the extent that their transactions are
 34 regulated under Part 2 of this Article.
- 35 d. Purchases by persons primarily in the business of obtaining from the
 36 public, either by purchase or exchange, used clothing, children's
 37 furniture, and children's products, ~~provided~~ provided (i) the amount
 38 paid for the individual item purchased is less than fifty dollars
 39 (\$50.00)-(\$50.00) and (ii) the individual item purchased is not a gift
 40 card or merchandise card of any value.
- 41 e. Purchases by persons primarily in the business of obtaining from the
 42 public, either by purchase or exchange, sporting goods and sporting
 43 equipment, ~~provided~~ provided (i) the amount paid for the individual
 44 item purchased is less than fifty dollars (\$50.00)-(\$50.00) and (ii) the
 45 individual item purchased is not a gift card or merchandise card of
 46 any value.
- 47 (2a) E-buyer. – A currency converter engaged in the business of purchasing gift
 48 cards or merchandise cards online.
- 49 (3) Pawn or pawn transaction. – A written bailment of personal property as
 50 security for a debt, redeemable on certain terms within 180 days, unless
 51 renewed, and with an implied power of sale on default.

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

13 **SECTION 4.** G.S. 66-392 reads as rewritten:

14 "§ 66-392. **Record-keeping requirements for currency ~~converters~~converters and**
15 **e-buyers.**

16 ...
17 (d) Notwithstanding subsection (a) of this section, an e-buyer shall record all of the
18 following information, which shall be typed or written in ink and in the English language:

- 19 (1) A clear and accurate description of the goods purchased by the currency
20 converter from the seller, including the brand of the gift card or merchandise
21 card and the last four digits of the card number.
- 22 (2) The name, address, and phone number or e-mail address of the seller.
- 23 (3) The date of the purchase.
- 24 (4) If identification is captured by the e-buyer, the type of identification and the
25 identification number provided to the e-buyer, including any photograph of
26 the seller, if obtained.
- 27 (5) The IP address utilized by the seller if captured by the e-buyer.
- 28 (6) The purchase price and value of the gift card or merchandise card.
- 29 (7) A statement to the effect that "THE SELLER OF THIS ITEM ATTESTS
30 THAT IT IS NOT STOLEN, HAS NO LIENS OR ENCUMBRANCES,
31 AND IS THE SELLER'S TO SELL."

32 Unless subject to an active investigation by law enforcement, an e-buyer shall make the
33 records described in this subsection available electronically via a secure connection upon a
34 reasonable request to the law enforcement officials described in subsection (b) of this section,
35 but no more frequently than on a monthly basis. If the request for information is related to an
36 active investigation, an e-buyer shall make the record available to the investigating law
37 enforcement agency electronically via a secure connection within one business day of the
38 request."

39 **SECTION 5.** This act becomes effective December 1, 2017, and applies to
40 offenses committed on or after that date."