

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 495
PROPOSED SENATE COMMITTEE SUBSTITUTE H495-PCS10573-CE-35

Short Title: Revise Money Laundering/Retail Crime.

(Public)

Sponsors:

Referred to:

March 29, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO CRIMINALIZE MONEY LAUNDERING AND TO REVISE CERTAIN
3 LARCENY LAWS.

4 The General Assembly of North Carolina enacts:

6 **CRIMINALIZE MONEY LAUNDERING**

7 **SECTION 1.(a)** Article 20 of Chapter 14 of the General Statutes is amended by
8 adding a new section to read:

9 "**§ 14-118.8. Money laundering.**

10 (a) Definitions. – The following definitions apply in this section:

11 (1) Criminal activity. – An offense that is (i) classified as a felony under the laws
12 of this State or the United States or (ii) punishable by imprisonment for more
13 than one year under the laws of another state.

14 (2) Financial institution. – As defined in G.S. 14-119 or as defined in 31 U.S.C.
15 § 5312.

16 (3) Funds. – Includes any of the following:

17 a. Coin or paper money of the United States or any other country that
18 circulates and is customarily used and accepted as a medium of
19 exchange in the country of issue.

20 b. United States silver certificates, United States Treasury notes, and
21 Federal Reserve System notes.

22 c. An official foreign bank note that is customarily used and accepted as
23 a medium of exchange in a foreign country and a foreign bank draft.

24 d. Currency or its equivalent, including an electronic fund, a personal
25 check, a bank check, a traveler's check, a money order, a bearer
26 negotiable instrument, a bearer investment security, a bearer security,
27 a certificate of stock in a form that allows title to pass on delivery, or
28 a digital currency.

29 e. Virtual currency or any other medium of exchange in electronic or
30 digital format that is not a coin or currency of the United States or any
31 other country.

32 (4) Insurer. – As defined in G.S. 58-1-5.

33 (5) Proceeds of criminal activity. – Funds acquired or derived directly or
34 indirectly from, produced through, realized through, or used in the
35 commission of criminal activity.



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1 (6) Transaction. – Any purchase, sale, loan, pledge, gift, transfer, delivery, or
2 other disposition between any parties, persons, businesses, or entities, and
3 with respect to a financial institution includes a deposit, withdrawal, transfer
4 between accounts, exchange of currency, loan, extension of credit, purchase
5 or sale of any stock, bond, certificate of deposit, or other monetary instrument,
6 use of a safety deposit box, or any other payment, transfer, or delivery by,
7 through, or to a financial institution, by whatever means effected.

8 (b) Offense. – A person commits the offense of money laundering if the person or
9 organization knowingly and willfully does any of the following involving proceeds of criminal
10 activity or funds that alone or aggregated pursuant to subsection (g) of this section exceed ten
11 thousand dollars (\$10,000):

12 (1) Acquires or maintains an interest in, conceals, possesses, transfers, or
13 transports the proceeds of criminal activity.

14 (2) Conducts, supervises, or facilitates a transaction involving the proceeds of
15 criminal activity.

16 (3) Invests, expends, or receives, or offers to invest, expend, or receive, the
17 proceeds of criminal activity or funds that the person believes are the proceeds
18 of criminal activity.

19 (4) Finances or invests, or intends to finance or invest, funds that the person
20 believes are intended to further the commission of criminal activity.

21 (5) Uses, transports, transmits, or transfers; conspires to use, transport, transmit,
22 or transfer; or attempts to use, transport, transmit, or transfer the proceeds of
23 criminal activity to conduct or attempt to conduct a transaction or make other
24 disposition with the intent to conceal or disguise the nature, location, source,
25 ownership, or control of the proceeds of criminal activity.

26 (6) Uses the proceeds of criminal activity with the intent to promote, in whole or
27 in part, the commission of criminal activity.

28 (7) Conducts or attempts to conduct a transaction involving the proceeds of
29 criminal activity, knowing the property involved in the transaction constitutes
30 proceeds of criminal activity with the intent to avoid a transaction reporting
31 requirement under federal law.

32 (c) Knowledge of Criminal Activity. – Knowledge of the nature of the criminal activity
33 giving rise to the proceeds is required to establish a culpable mental state under this section.

34 (d) Defense. – It is a defense to prosecution under this section that the person acted with
35 intent to facilitate the lawful seizure, forfeiture, or disposition of funds or other legitimate law
36 enforcement purpose pursuant to the laws of this State or the United States.

37 (e) Punishment. – In addition to any other civil or criminal penalties provided by law, a
38 person who commits an offense under subsection (b) of this section shall be punished as follows:

39 (1) If the value of the proceeds or funds is less than one hundred thousand dollars
40 (\$100,000), the person is guilty of a Class H felony.

41 (2) If the value of the proceeds or funds is one hundred thousand dollars
42 (\$100,000) or more, the person is guilty of a Class C felony.

43 (f) Forfeiture. – In addition to the punishment set forth in subsection (e) of this section,
44 all property of every kind used or intended for use in the course of, derived from, maintained by,
45 or realized through a violation of subsection (b) of this section shall be subject to forfeiture under
46 the procedure set forth in either G.S. 14-2.3 or G.S. 75D-5.

47 (g) Aggregation. – If the proceeds of criminal activity are related to one scheme or
48 continuing course of conduct, whether from the same or several sources, the conduct may be
49 considered as one offense and the value of the proceeds aggregated in determining the
50 classification of the offense under subsection (e) of this section.

1 (h) Merger. – Each violation of subsection (b) of this section constitutes a separate
 2 offense and shall not merge with any other offense.

3 (i) Conspiracy. – A person who conspires to commit an offense under subsection (b) of
 4 this section shall be punished as provided in subsection (e) of this section, and all other provisions
 5 of this section shall apply to that offense. It shall not be a defense to conspiracy to commit an
 6 offense under subsection (b) of this section that the person with whom the defendant is alleged
 7 to have conspired was a law enforcement officer or a person acting at the direction of a law
 8 enforcement officer that represented to the defendant that the funds are proceeds of or are
 9 intended to further the commission of criminal activity.

10 (j) Protection from Liability. – Notwithstanding any provision of law to the contrary, a
 11 financial institution, or an agent of the financial institution, acting in a manner described by
 12 subsection (d) of this section is not liable for civil damages to a person who (i) claims an
 13 ownership interest in funds involved in a violation of subsection (b) of this section or (ii) conducts
 14 with the financial institution or insurer a transaction concerning funds involved in a violation of
 15 subsection (b) of this section.

16 (k) Venue. – Each county where a part of the violations under subsection (b) of this
 17 section occurs shall have concurrent venue as described in G.S. 15A-132."

18 **SECTION 1.(b)** G.S. 75D-3(c)(1)c. reads as rewritten:

19 "c. Any conduct involved in a "money laundering" ~~activity;~~
 20 activity, including activity covered by G.S. 14-118.8; and"

21 **REVISIONS TO CERTAIN LARCENY LAWS**

22 **SECTION 2.(a)** G.S. 14-86.5 reads as rewritten:

23 **"§ 14-86.5. Definitions.**

24 The following definitions apply in this Article:

- 25 (1) "Retail property." – Any ~~new~~ article, product, commodity, item, or component
 26 intended to be sold in retail commerce.
 27 (2) ~~"Retail property fence." – A person or business that buys retail property~~
 28 ~~knowing or believing that retail property is stolen.~~
 29 (3) "Theft." – To take possession of, carry away, transfer, or cause to be carried
 30 away the retail property of another with the intent to steal the retail property.
 31 (4) "Value." – The retail value of an item as advertised by the affected retail
 32 establishment, to include all applicable taxes."
 33

34 **SECTION 2.(b)** G.S. 14-86.6 reads as rewritten:

35 **"§ 14-86.6. Organized retail theft.**

36 (a) Offense. – A person commits the offense of organized retail theft if the person does
 37 any of the following:

- 38 (1) Conspires with another person to commit theft of retail property from retail
 39 establishments with the intent to ~~sell~~ sell, transfer, or possess that retail
 40 property for monetary or other ~~gain, and who takes or causes that retail~~
 41 ~~property to be placed in the control of a retail property fence or other person~~
 42 ~~in exchange for consideration.~~ gain.
 43 (2) Receives or possesses any retail property that has been taken or stolen in
 44 violation of subdivision (1) of this subsection while knowing or having
 45 reasonable grounds to believe the property is stolen.
 46 (3) Conspires with two or more other persons as an organizer, supervisor,
 47 financier, leader, or manager to engage for profit in a scheme or course of
 48 conduct to effectuate or intend to effectuate the transfer or sale of property
 49 stolen from a merchant in violation of this section.

50 (a1) Repealed by Session Laws 2022-30, s. 1, effective December 1, 2022.

1 (a2) Punishments. – The following classifications apply to the offense of organized retail
2 theft:

- 3 (1) An offense when the retail property has a value exceeding one thousand five
4 hundred dollars (\$1,500) aggregated over a 90-day period is a Class H felony.
5 (2) An offense when the retail property has a value exceeding twenty thousand
6 dollars (\$20,000) aggregated over a 90-day period is a Class G felony.
7 (3) An offense when the retail property has a value exceeding fifty thousand
8 dollars (\$50,000) aggregated over a 90-day period is a Class F felony.
9 (4) An offense when the retail property has a value exceeding one hundred
10 thousand dollars (\$100,000) aggregated over a 90-day period is a Class C
11 felony.

12 (b) Forfeiture. – Except as otherwise provided in G.S. 14-86.1, any interest a person has
13 acquired or maintained in violation of this section shall be subject to forfeiture pursuant to the
14 procedures for forfeiture set out in G.S. 18B-504.

15 (c) Multiple Thefts. – Thefts of retail property occurring in more than one county may be
16 aggregated into an alleged violation of this section. Each county where a part of the charged
17 offense occurs has concurrent venue as described in G.S. 15A-132."

18 **SECTION 2.(c)** G.S. 14-72.1 reads as rewritten:

19 **"§ 14-72.1. Concealment of merchandise in mercantile establishments.**

20 (a) Whoever, without authority, willfully conceals the goods or merchandise of any store,
21 not theretofore purchased by such person, while still upon the premises of such store, shall be
22 guilty of a misdemeanor and, upon conviction, shall be punished as provided in subsection (e).
23 Such goods or merchandise found concealed upon or about the person and which have not
24 theretofore been purchased by such person shall be prima facie evidence of a willful concealment.

25 (b) Repealed by Session Laws 1985 (Regular Session, 1986), c. 841, s. 2.

26 (c) A merchant, or the merchant's agent or employee, or a peace officer who detains or
27 causes the arrest of any person shall not be held civilly liable for detention, malicious prosecution,
28 false imprisonment, or false arrest of the person detained or arrested, where such detention is
29 upon the premises of the store or in a reasonable proximity thereto, is in a reasonable manner for
30 a reasonable length of time, and, if in detaining or in causing the arrest of such person, the
31 merchant, or the merchant's agent or employee, or the peace officer had at the time of the
32 detention or arrest probable cause to believe that the person committed the offense created by
33 this section. If the person being detained by the merchant, or the merchant's agent or employee,
34 is a minor under the age of 18 years, the merchant or the merchant's agent or employee, shall call
35 or notify, or make a reasonable effort to call or notify the parent or guardian of the minor, during
36 the period of detention. A merchant, or the merchant's agent or employee, who makes a
37 reasonable effort to call or notify the parent or guardian of the minor shall not be held civilly
38 liable for failing to notify the parent or guardian of the minor.

39 (d) Whoever, without authority, willfully transfers any price ~~tag-tag, product code, or~~
40 other price mechanism from goods or merchandise to other goods or merchandise having a higher
41 selling price or marks said goods at a lower price or substitutes or superimposes thereon a false
42 price tag and then presents said goods or merchandise for purchase shall be guilty of a
43 misdemeanor and, upon conviction, shall be punished as provided in subsection (e).

44 Nothing herein shall be construed to provide that the mere possession of goods or the
45 production by shoppers of improperly priced merchandise for checkout shall constitute prima
46 facie evidence of guilt.

47 (d1) Notwithstanding subsection (e) of this section, any person who violates subsection (a)
48 of this section by using a lead-lined or aluminum-lined bag, a lead-lined or aluminum-lined
49 article of clothing, or a similar device to prevent the activation of any antishoptlifting or inventory
50 control device is guilty of a Class H felony.

1 (d2) Whoever, without authority, willfully transfers any price tag, product code, or other
2 price mechanism, from goods or merchandise to other goods or merchandise having a selling
3 price in excess of two hundred dollars (\$200.00) higher than the price tag, product code, or other
4 price mechanism from which the price tag, product code, or other pricing mechanism was
5 transferred and then presents said goods or merchandise for purchase shall be guilty of a Class H
6 felony.

7 Nothing herein shall be construed to provide that the mere possession of goods or the
8 production by shoppers of improperly priced merchandise for checkout shall constitute prima
9 facie evidence of guilt.

10 (e) Punishment. – For a first conviction under subsection (a) or (d), or for a subsequent
11 conviction for which the punishment is not specified by this subsection, the defendant shall be
12 guilty of a Class 3 misdemeanor. The term of imprisonment may be suspended only on condition
13 that the defendant perform community service for a term of at least 24 hours. For a second offense
14 committed within three years after the date the defendant was convicted of an offense under this
15 section, the defendant shall be guilty of a Class 2 misdemeanor. The term of imprisonment may
16 be suspended only on condition that the defendant be imprisoned for a term of at least 72 hours
17 as a condition of special probation, perform community service for a term of at least 72 hours, or
18 both. For a third or subsequent offense committed within five years after the date the defendant
19 was convicted of two other offenses under this section, the defendant shall be guilty of a Class 1
20 misdemeanor. The term of imprisonment may be suspended only if a condition of special
21 probation is imposed to require the defendant to serve a term of imprisonment of at least 11 days.
22 However, if the sentencing judge finds that the defendant is unable, by reason of mental or
23 physical infirmity, to perform the service required under this section, and the reasons for such
24 findings are set forth in the judgment, the judge may pronounce such other sentence as the judge
25 finds appropriate.

26 (f) Repealed by Session Laws 2009-372, s. 12, effective December 1, 2009, and
27 applicable to offenses committed on or after that date.

28 (g) Limitations. – For active terms of imprisonment imposed under this section:

- 29 (1) The judge may not give credit to the defendant for the first 24 hours of time
30 spent in incarceration pending trial;
- 31 (2) The defendant must serve the mandatory minimum period of imprisonment
32 and good or gain time credit may not be used to reduce that mandatory
33 minimum period; and
- 34 (3) The defendant may not be released or paroled unless he is otherwise eligible
35 and has served the mandatory minimum period of imprisonment."

36 **SECTION 2.(d)** G.S. 14-72.11 reads as rewritten:

37 "**§ 14-72.11. Larceny from a merchant.**

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

- 40 (1) By taking property that has a value of more than two hundred dollars
41 (\$200.00), using an exit door erected and maintained to comply with the
42 requirements of 29 C.F.R. § 1910.36 and 29 C.F.R. § 1910.37, to exit the
43 premises of a store.
- 44 (2) By removing, destroying, or deactivating a component of an antishoplifting or
45 inventory control device to prevent the activation of any antishoplifting or
46 inventory control device. As used in this subdivision, the phrase
47 "antishoplifting or inventory control device" shall mean any physical or
48 electronic mechanism utilized to prevent larceny from a merchant and
49 includes, but is not limited to, product security tags affixed to an item,
50 shelving, security cameras, and security systems utilized by a merchant to
51 prevent larceny.

- 1 (3) ~~By affixing a product code created for the purpose of fraudulently obtaining~~
2 ~~goods or merchandise from a merchant at less than its actual sale price.~~
- 3 (4) When the property is infant formula valued in excess of one hundred dollars
4 (\$100.00). As used in this subsection, the term "infant formula," has the same
5 meaning as found in 21 U.S.C. § 321(z).
- 6 (5) By exchanging property for cash, a gift card, a merchandise card, or some
7 other item of value, knowing or having reasonable grounds to believe the
8 property is stolen.
- 9 (6) By fraudulently creating a product code or any other price mechanism utilized
10 by a merchant to determine the price of a good with the intent to fraudulently
11 obtain goods or merchandise from a merchant at less than its actual sale price.
- 12 (7) By affixing a product code or any other price mechanism utilized by a
13 merchant to determine the price of a good when the product code or other
14 price mechanism was created by someone other than the merchant or
15 manufacturer of the goods or merchandise for the purpose of fraudulently
16 obtaining goods or merchandise from a merchant at less than its actual sale
17 price.
- 18 (8) By presenting a good for purchase for the purpose of fraudulently obtaining
19 goods or merchandise from a merchant at less than its actual sales price
20 knowing that a product code or any other price mechanism utilized by a
21 merchant to determine the price of the good has been replaced by a product
22 code or other price mechanism created by someone other than the merchant
23 or manufacturer.

24 As used in this section, the phrase "product code or other pricing mechanism" shall mean any
25 means used by a merchant to designate or identify the price of an item by a person or a merchant
26 and includes, but is not limited to, a price tag, a Universal Product Code (UPC), or a Quick
27 Response (QR) Code."

29 **EFFECTIVE DATE**

30 **SECTION 3.** This act becomes effective December 1, 2024, and applies to offenses
31 committed on or after that date.