

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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BILL DRAFT 2021-SA-18 [v.3]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)  
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Short Title: Organized Retail Theft.

(Public)

Sponsors:

Referred to:

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

4 SECTION . G.S. 14-86.6 reads as rewritten:

5 "§ 14-86.6. Organized retail theft.

6 (a) A person is guilty of a Class H 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 one thousand five hundred dollars  
9 (\$1,500) aggregated over a 90-day period, with the intent to sell that retail  
10 property for monetary or other gain, and who takes or causes that retail  
11 property to be placed in the control of a retail property fence or other person  
12 in exchange for consideration.

13 (2) Receives or possesses any retail property that has been taken or stolen in  
14 violation of subdivision (1) of this subsection while knowing or having  
15 reasonable grounds to believe the property is stolen.

16 (a1) A person is guilty of a Class G felony if the person does either of the following:

17 (1) Conspires with another person to commit theft of retail property from one or  
18 more retail establishments, with a value exceeding twenty thousand dollars  
19 (\$20,000) aggregated over a 90-day period, with the intent to sell that retail  
20 property for monetary or other gain, and who takes or causes that retail  
21 property to be placed in the control of a retail property fence or other person  
22 in exchange for consideration.

23 (2) Conspires with two or more other persons as an organizer, supervisor,  
24 financier, leader, or manager to engage for profit in a scheme or course of  
25 conduct to effectuate the transfer or sale of property stolen from a merchant  
26 in violation of this section.

27 (a2) A person is guilty of a Class F felony if the person does either of the following:

28 (1) Conspires with another person to commit theft of retail property from one or  
29 more retail establishments, with a value exceeding fifty thousand dollars  
30 (\$50,000) aggregated over a 90-day period, with the intent to sell that retail  
31 property for monetary or other gain, and who takes or causes that retail  
32 property to be placed in the control of a retail property fence or other person  
33 in exchange for consideration.



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1           (2)    Conspires with two or more other persons as an organizer, supervisor,  
2                   financier, leader, or manager to engage for profit in a scheme or course of  
3                   conduct to effectuate the transfer or sale of property stolen from a merchant  
4                   in violation of this section.

5       (a3)    A person is guilty of a Class C felony if the person does either of the following:

6           (1)    Conspires with another person to commit theft of retail property from one or  
7                   more retail establishments, with a value exceeding one hundred thousand  
8                   dollars (\$100,000) aggregated over a 90-day period, with the intent to sell that  
9                   retail property for monetary or other gain, and who takes or causes that retail  
10                  property to be placed in the control of a retail property fence or other person  
11                  in exchange for consideration.

12          (2)    Conspires with two or more other persons as an organizer, supervisor,  
13                   financier, leader, or manager to engage for profit in a scheme or course of  
14                   conduct to effectuate the transfer or sale of property stolen from a merchant  
15                   in violation of this section.

16       (a4)    A person is guilty of a Class G felony if the person conspires with another person to  
17       commit theft of retail property from a retail establishment, with a value exceeding one thousand  
18       dollars (\$1,000) and damages, destroys, or defaces real or personal property in excess of one  
19       thousand dollars (\$1,000.)

20       (a5)    A person is guilty of a Class G felony if the person conspires with another person to  
21       commit theft of retail property from a retail establishment, with a value exceeding one thousand  
22       dollars (\$1,000) and commits an act of assault and battery against an employee or independent  
23       contractor of the retail establishment or a law enforcement officer in the commission of the theft  
24       of retail property.

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

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

30       **SECTION .** G.S. 14-86.1(a) reads as rewritten:

31       (a)    All conveyances, including vehicles, watercraft or aircraft, used to unlawfully  
32       conceal, convey or transport property in violation of G.S. 14-71, 14-71.1, or ~~14-71.2~~ or 14-71.2,  
33       used by any person in the commission of armed or common-law robbery, ~~or~~ used in violation of  
34       G.S. 14-72.7, ~~or~~ used by any person in the commission of any larceny when the value of the  
35       property taken is more than two thousand dollars (~~\$2,000~~) (\$2,000,) or used by any person in the  
36       commission of organized retail theft in violation of G.S. 14-86.6 shall be subject to forfeiture as  
37       provided herein, except that:

38           (1)    No conveyance used by any person as a common carrier in the transaction of  
39                   the business of the common carrier shall be forfeited under the provisions of  
40                   this section unless it shall appear that the owner or other person in custody or  
41                   control of such conveyance was a consenting party or privy to a violation that  
42                   may subject the conveyance to forfeiture under this section;

43           (2)    No conveyance shall be forfeited under the provisions of this section by reason  
44                   of any act or omission committed or omitted while such conveyance was  
45                   unlawfully in the possession of a person other than the owner in violation of  
46                   the criminal laws of the United States, or any state;

47           (3)    No conveyance shall be forfeited pursuant to this section unless the violation  
48                   involved is a felony;

49           (4)    A forfeiture of a conveyance encumbered by a bona fide security interest is  
50                   subject to the interest of the secured party who neither had knowledge of nor  
51                   consented to the act or omission;

1 (5) No conveyance shall be forfeited under the provisions of this section unless  
2 the owner knew or had reason to believe the vehicle was being used in the  
3 commission of any violation that may subject the conveyance to forfeiture  
4 under this section;

5 (6) The trial judge in the criminal proceeding which may subject the conveyance  
6 to forfeiture may order the seized conveyance returned to the owner if he finds  
7 forfeiture inappropriate. If the conveyance is not returned to the owner the  
8 procedures provided in subsection (e) shall apply.

9 As used in this section concerning a violation of G.S. 14-72.7, the term "conveyance"  
10 includes any "instrumentality" as defined in that section."

11 **SECTION 3.** This act becomes effective December 1, 2022, and applies to offenses  
12 committed on or after that date.