

GENERAL ASSEMBLY OF NORTH CAROLINA  
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SENATE BILL 1270  
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Short Title: Amend Larceny Laws.

(Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 14-72 reads as rewritten:

**"§ 14-72. Larceny of property; receiving stolen goods or possessing stolen goods.**

(a) Larceny of goods of the value of more than one thousand dollars (\$1,000) is a Class H felony. The receiving or possessing of stolen goods of the value of more than one thousand dollars (\$1,000) while knowing or having reasonable grounds to believe that the goods are stolen is a Class H felony. Larceny as provided in subsection (b) of this section is a Class H felony. Receiving or possession of stolen goods as provided in subsection (c) of this section is a Class H felony. Except as provided in subsections (b) and (c) of this section, larceny of property, or the receiving or possession of stolen goods knowing or having reasonable grounds to believe them to be stolen, where the value of the property or goods is not more than one thousand dollars (\$1,000), is a Class 1 misdemeanor. In all cases of doubt, the jury shall, in the verdict, fix the value of the property stolen.

(b) ~~The~~ Except as provided in sub-subdivisions (6)d. and (6)e. of this subsection, the crime of larceny is a felony, without regard to the value of the property in question, if the larceny is any of the following:

(1) From the person.

(2) Committed pursuant to a violation of G.S. 14-51, 14-53, 14-54, 14-54.1, or 14-57.

(3) Of any explosive or incendiary device or substance. As used in this section, the phrase "explosive or incendiary device or substance" shall include any explosive or incendiary grenade or bomb; any dynamite,

1 blasting powder, nitroglycerin, TNT, or other high explosive; or any  
2 device, ingredient for such device, or type or quantity of substance  
3 primarily useful for large-scale destruction of property by explosive or  
4 incendiary action or lethal injury to persons by explosive or incendiary  
5 action. This definition shall not include fireworks; or any form, type,  
6 or quantity of gasoline, butane gas, natural gas, or any other substance  
7 having explosive or incendiary properties but serving a legitimate  
8 nondestructive or nonlethal use in the form, type, or quantity stolen.

9 (4) Of any firearm. As used in this section, the term "firearm" shall  
10 include any instrument used in the propulsion of a shot, shell or bullet  
11 by the action of gunpowder or any other explosive substance within it.  
12 A "firearm," which at the time of theft is not capable of being fired,  
13 shall be included within this definition if it can be made to work. This  
14 definition shall not include air rifles or air pistols.

15 (5) Of any record or paper in the custody of the North Carolina State  
16 Archives as defined by G.S. 121-2(7) and G.S. 121-2(8).

17 (6) From any merchant:

18 a. By using an exit door erected and maintained to comply with  
19 the requirements of 29 C.F.R. § 1910 Subpart E, upon which  
20 door has been placed a notice, sign, or poster providing  
21 information about the felony offense and punishment provided  
22 under this subsection, to exit the premises of a store.

23 b. By removing, destroying, or deactivating any component of an  
24 antishoplifting or inventory control device to prevent the  
25 activation of any antishoplifting or inventory control device.

26 c. By affixing a product code obtained or created by the person for  
27 the purpose of fraudulently obtaining goods or merchandise  
28 from a merchant at less than its actual sale price.

29 d. When the property is infant formula as defined in 21 U.S.C. §  
30 321(z) valued in excess of one hundred dollars (\$100.00).

31 e. When the value of the property is more than five hundred  
32 dollars (\$500.00) and the larceny of the property is the result of  
33 a conspiracy between two or more individuals.

34 (c) The crime of possessing stolen goods knowing or having reasonable grounds  
35 to believe them to be stolen in the circumstances described in subsection (b) is a felony  
36 or the crime of receiving stolen goods knowing or having reasonable grounds to believe  
37 them to be stolen in the circumstances described in subsection (b) is a felony, without  
38 regard to the value of the property in ~~question-question~~, except as provided in  
39 sub-subdivisions (6)d. and (6)e. of subsection (b) of this section.

40 (d) Where the larceny or receiving or possession of stolen goods as described in  
41 subsection (a) of this section involves the merchandise of any store, a merchant, a  
42 merchant's agent, a merchant's employee, or a peace officer who detains or causes the  
43 arrest of any person shall not be held civilly liable for detention, malicious prosecution,  
44 false imprisonment, or false arrest of the person detained or arrested, when such

1 detention is upon the premises of the store or in a reasonable proximity thereto, is in a  
2 reasonable manner for a reasonable length of time, and, if in detaining or in causing the  
3 arrest of such person, the merchant, the merchant's agent, the merchant's employee, or  
4 the peace officer had, at the time of the detention or arrest, probable cause to believe  
5 that the person committed an offense under subsection (a) of this section. If the person  
6 being detained by the merchant, the merchant's agent, or the merchant's employee, is a  
7 minor under the age of 18 years, the merchant, the merchant's agent, or the merchant's  
8 employee, shall call or notify, or make a reasonable effort to call or notify the parent or  
9 guardian of the minor, during the period of detention. A merchant, a merchant's agent,  
10 or a merchant's employee, who makes a reasonable effort to call or notify the parent or  
11 guardian of the minor shall not be held civilly liable for failing to notify the parent or  
12 guardian of the minor."

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

15 "Article 16A.

16 "Organized Retail Theft.

17 **"§ 14-86.5. Definitions.**

18 The following definitions apply in this Article:

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

28 **"§ 14-86.6. Organized retail theft.**

29 (a) Offense: Organized Retail Theft. – A person who conspires with another  
30 person to commit theft of retail property from a retail establishment, with a value  
31 exceeding one thousand five hundred dollars (\$1,500) aggregated over a 90-day period,  
32 with the intent to sell that retail property for monetary or other gain, and who takes or  
33 causes that retail property to be placed in the control of a retail property fence or other  
34 person in exchange for consideration is guilty of a Class G felony.

35 (b) Offense: Receiving and Possessing Retail Property Obtained by Organized  
36 Retail Theft. – A person who receives or possesses, with the intent to distribute, any  
37 retail property into interstate commerce which has been taken or stolen in violation of  
38 this section is guilty of a Class G felony.

39 (c) Explicit Representation of Theft of Retail Property. – It is not a defense to a  
40 charge of receiving stolen retail property in violation of this section that the retail  
41 property was obtained by means other than through the commission of a theft offense if  
42 the retail property was explicitly represented to the accused person as being obtained  
43 through the commission of a theft offense.

1       (d) Venue. – Venue for criminal actions to enforce the provisions of this section,  
2 including criminal actions with respect to each of the offenses included within  
3 organized retail theft as defined by this section that have been committed, attempted, or  
4 conspired to be committed by two or more persons, shall be in any county in which at  
5 least one criminal offense has occurred that constitutes part of the organized retail theft  
6 offenses. It is the intent of the General Assembly that one State court may have  
7 jurisdiction over all the conduct, persons, and retail property which are part of, or are  
8 directly related to, each and all of the criminal offenses forming part of the organized  
9 retail theft offenses; however, it is discretionary, not mandatory, to bring all criminal  
10 actions in one jurisdiction when organized retail theft offenses involve two or more  
11 counties.

12       (e) Forfeiture. – Any person who violates any provision of this section shall  
13 forfeit to the State any interest the person has acquired or maintained in violation of this  
14 section."

15               **SECTION 3.** This act becomes effective December 1, 2007, and applies to  
16 offenses committed on or after that date.