

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

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HOUSE BILL 384

Short Title: Increase Penalties/Organized Retail Theft. (Public)

Sponsors: Representatives Fraley, Jordan, Warren, and Wray (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary II

March 20, 2017

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

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

"§ 14-72.11. Larceny from a merchant.

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

- (1) If the property taken has a value of more than two hundred dollars (\$200.00), by using an exit door erected and maintained to comply with the requirements of 29 C.F.R. § 1910.36 and 29 C.F.R. § 1910.37 upon which door has been placed a notice, sign, or poster providing information about the felony offense and punishment provided under this subsection, to exit the premises of a store.
(2) By removing, destroying, or deactivating a component of an antishoplifting or inventory control device to prevent the activation of any antishoplifting or inventory control device.
(3) By affixing a product code created for the purpose of fraudulently obtaining goods or merchandise from a merchant at less than its actual sale price.
(4) When the property is infant formula valued in excess of one hundred dollars (\$100.00). As used in this subsection, the term "infant formula," has the same meaning as found in 21 U.S.C. § 321(z).
(5) By exchanging stolen property for something of value, cash, a gift card, or a merchandise card.
(6) By returning stolen property and utilizing fictitious identification to prevent the merchant from properly identifying the person seeking to return the property."

SECTION 2. Article 16A of Chapter 14 of the General Statutes reads as rewritten:

"Article 16A.

"Organized Retail Theft.

"§ 14-86.5. Definitions.

The following definitions apply in this Article:

- (1) "Organized retail theft enterprise." – Two or more persons who associate for the purpose of engaging in the conduct of organized retail theft.
(1a) "Retail property." – Any article, product, commodity, item, or component intended to be sold in retail commerce.



- 1 (2) "Retail property fence." – A person or business that buys retail property  
2 knowing or believing that retail property is stolen.  
3 (3) "Theft." – To take possession of, carry away, transfer, or cause to be carried  
4 away the retail property of another with the intent to steal the retail property.  
5 (4) "Value." – The retail value of an item as advertised by the affected retail  
6 establishment, to include all applicable taxes."

7 **"§ 14-86.6. Organized retail theft.**

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

- 10 (1) Conspires with another person to commit theft of retail property from retail  
11 establishments, with a value exceeding one thousand five hundred dollars  
12 (\$1,500) aggregated over a 90-day period, with the intent to sell that retail  
13 property for monetary or other gain, and who takes or causes that retail  
14 property to be placed in the control of a retail property fence or other person  
15 in exchange for consideration.  
16 (2) Receives or possesses any retail property that has been taken or stolen in  
17 violation of subdivision (1) of this subsection while knowing or having  
18 reasonable grounds to believe the property is stolen.

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

- 20 (1) Conspires with another person to commit theft of retail property from retail  
21 establishments, with a value exceeding twenty thousand dollars (\$20,000)  
22 aggregated over a 90-day period, with the intent to sell that retail property  
23 for monetary or other gain, and who takes or causes that retail property to be  
24 placed in the control of a retail property fence or other person in exchange  
25 for consideration.  
26 (2) Acts as leader of an organized retail theft enterprise if the person conspires  
27 with others as an organizer, supervisor, financier, or manager to engage for  
28 profit in a scheme or course of conduct to effectuate the transfer or sale of  
29 property stolen from a merchant.

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

32 (c) A violation of this section occurring in different counties that have been aggregated  
33 in one county may be prosecuted in any county in which one of the violations occurred."

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

35 **"§ 66-387. Definitions.**

36 The following definitions apply in this Part:

- 37 (1) Cash. – Lawful currency of the United States.  
38 (2) Currency converter. – A person engaged in the business of purchasing ~~goods~~  
39 goods, including a gift card or merchandise card of any value not issued by  
40 the person, from the public for cash at a permanently located retail store  
41 store, an itinerant merchant as defined in G.S. 66-250(1), or a Web site  
42 located in North Carolina who holds himself or herself out to the public by  
43 signs, advertising, or other methods as engaging in that business. The term  
44 does not include any of the following:  
45 a. ~~Pawnbrokers.~~ Pawnbrokers, except with regard to the purchase of a  
46 gift card or merchandise card.  
47 b. Persons whose goods purchases are made directly from  
48 manufacturers or wholesalers for their inventories.  
49 c. Precious metals dealers, to the extent that their transactions are  
50 regulated under Part 2 of this Article.

- 1 d. Purchases by persons primarily in the business of obtaining from the  
2 public, either by purchase or exchange, used clothing, children's  
3 furniture, and children's products, ~~provided~~provided (i) the amount  
4 paid for the individual item purchased is less than fifty dollars  
5 (\$50.00).(i) the individual item purchased is not a gift  
6 card or merchandise card of any value.
- 7 e. Purchases by persons primarily in the business of obtaining from the  
8 public, either by purchase or exchange, sporting goods and sporting  
9 equipment, ~~provided~~provided (i) the amount paid for the individual  
10 item purchased is less than fifty dollars (\$50.00).(ii) the  
11 individual item purchased is not a gift card or merchandise card of  
12 any value.
- 13 (3) Pawn or pawn transaction. – A written bailment of personal property as  
14 security for a debt, redeemable on certain terms within 180 days, unless  
15 renewed, and with an implied power of sale on default.
- 16 (4) Pawnbroker. – A person engaged in the business of lending money on the  
17 security of pledged goods and who may also purchase merchandise for  
18 resale from dealers and traders.
- 19 (5) Pawnshop. – The location at which, or premises in which, a pawnbroker  
20 regularly conducts business.
- 21 (6) Person. – Any individual, corporation, joint venture, association, or any  
22 other legal entity, however organized.
- 23 (7) Pledged goods. – Tangible personal property which is deposited with, or  
24 otherwise actually delivered into, the possession of a pawnbroker in the  
25 course of his business in connection with a pawn transaction.
- 26 (8) Purchase. – An item purchased from an individual for the purpose of resale  
27 whereby the seller no longer has a vested interest in the item."

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