

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE BILL 384  
Committee Substitute Favorable 4/6/17  
Senate Judiciary Committee Substitute Adopted 6/14/17

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.



- 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."