

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 1005

Short Title: Organized Retail Theft. (Public)

Sponsors: Representatives Boles, Davis, McNeill, and C. Smith (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 2, if favorable, Rules, Calendar, and Operations of the House

May 23, 2022

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE ORGANIZED RETAIL THEFT STATUTES, AS
3 RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON
4 JUSTICE AND PUBLIC SAFETY.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 14-86.6 reads as rewritten:

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

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

9 (1) Conspires with another person to commit theft of retail property from retail
10 establishments, with a value exceeding one thousand five hundred dollars
11 (\$1,500) aggregated over a 90-day period, with the intent to sell that retail
12 property for monetary or other gain, and who takes or causes that retail
13 property to be placed in the control of a retail property fence or other person
14 in exchange for consideration.

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

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

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

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

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

30 (1) Conspires with another person to commit theft of retail property from one or
31 more retail establishments, with a value exceeding fifty thousand dollars
32 (\$50,000) aggregated over a 90-day period, with the intent to sell that retail
33 property for monetary or other gain, and who takes or causes that retail
34 property to be placed in the control of a retail property fence or other person
35 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 2.** 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~~ 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.