



HOUSE BILL 384: Increase Penalties/Organized Retail Theft.

2017-2018 General Assembly

Committee:	House Judiciary III	Date:	April 6, 2017
Introduced by:	Reps. Fraley, Jordan, Warren, Wray	Prepared by:	Susan Sitze Staff Attorney
Analysis of:	PCS to First Edition H384-CSSA-8		

OVERVIEW: *The proposed committee substitute (PCS) for House Bill 384 would amend the larceny from a merchant and organized retail theft statutes and amend the definition of currency converter to (i) include the purchase of gift cards and (ii) include itinerant merchants and websites located in North Carolina.*

[As introduced, this bill was identical to S409, as introduced by Sens. Curtis, Meredith, Britt, which is currently in Senate Rules and Operations of the Senate.]

CURRENT LAW:

Larceny from a merchant pursuant to G.S. 14-72.11 is a Class H felony.

Organized retail theft pursuant to G.S. 14-86.6 is a Class H felony. The offense currently applies if a person conspires with another to steal property from merchants worth a total of \$1,500 or more in a 90 day period, with the intent to sell the property and then fences that property, or a person receives such property knowing or having reasonable grounds to believe the property was stolen.

G.S. 66-250(1) defines "itinerant merchant" as follows:

A person, other than a merchant with an established retail store in the county, who transports an inventory of goods to a building, vacant lot, or other location in a county and who, at that location, displays the goods for sale and sells the goods at retail or offers the goods for sale at retail.

BILL ANALYSIS:

Section 1 would amend G.S. 14-72.11, Larceny from a merchant, to include the following acts:

- Exchanging property, knowing or having reasonable grounds to believe the property is stolen, for cash, a gift card, a merchandise card, or some other item of value.
- Exchanging property, knowing or having reasonable grounds to believe the property is stolen, for cash, a gift card, a merchandise card, or some other item of value and utilizing fictitious identification to prevent the merchant from properly identifying the person seeking to exchange the property.

Section 2 would amend G.S. 14-86.6, Organized retail theft, to create a new Class G felony if a person does either of the following:

- Conspires to steal retail property with a value exceeding \$20,000 in a 90 day period, with the intent to sell the property and then fences the property.

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- Acts as a leader of two or more other persons associated for organized retail theft, if the person acts as an organizer, supervisor, financier, or manager in conduct designed to transfer or sell property stolen from a merchant.

This section would also provide that thefts of retail property that occur in more than one county may be aggregated in alleging a violation of organized retail theft and that the offense may be prosecuted in any county where one of the aggregated thefts of retail property occurred.

Section 3 would amend the definition of currency converter to include a gift card or merchandise card as a purchased "good" qualifying the business as a currency converter. The definition would also be amended to include an itinerant merchant or a Web site located in North Carolina, and to modify the exclusions from the definition to clarify that purchases of a gift card or merchandise card do qualify the person as a currency converter.

Inclusion in the definition of currency converter subjects the person to specific record keeping requirements for purchases pursuant to G.S. 66-392, including obtaining the name, address, phone number, date of birth, identification, and a physical description of the seller of the item, as well as requiring the seller to sign a statement that the item is not stolen.

EFFECTIVE DATE: This act would become effective December 1, 2017, and apply to offenses committed on or after that date.