



SENATE BILL 766: Organized Retail Theft.

2021-2022 General Assembly

Committee:		Date:	August 10, 2022
Introduced by:		Prepared by:	Susan Sitze
Analysis of:	S.L. 2022-30		Staff Attorney

OVERVIEW: *S.L. 2022-30 does all of the following:*

- *Increases the penalties for organized retail theft.*
- *Provides additional penalties for damage to property or assault of a person during the commission of organized retail theft.*
- *Provides additional recovery to retail establishments for loss due to organized retail theft.*
- *Regulates high-volume third-party sellers operating on online marketplaces.*

The provisions related to organized retail theft become effective December 1, 2022, and apply to offenses committed on or after that date. The online marketplace regulations become effective January 1, 2023.

CURRENT LAW AND BILL ANALYSIS:

Under current law, G.S. 14-86.6 the punishment for organized retail theft is as follows:

- A Class H felony for organized retail theft of property with a value exceeding \$1,500 aggregated over 90 days or receipt or possession of that property knowing or having reasonable grounds to know the property is stolen.
- A Class G felony for organized retail theft of property with a value exceeding \$20,000 aggregated over 90 days.
- A Class G felony for conspiring with two or more other persons as an organizer, supervisor, financier, leader, or manager to engage for profit in a scheme or course of conduct to transfer or sell property stolen through organized retail theft.

Section 1 of this act amends G.S. 14-86.6 as follows:

- Creates a Class F felony for organized retail theft of property with a value exceeding \$50,000 aggregated over 90 days.
- Creates a Class C felony for organized retail theft of property with a value exceeding \$100,000 aggregated over 90 days.
- Connects the offense class for a person who receives or possesses property stolen through organized retail theft and a person who conspires to transfer or sell property stolen through organized retail theft to the value of the property stolen through organized retail theft.

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Section 2 enacts a new statute, G.S. 14-86.7, which creates a Class A1 misdemeanor for each of the following offenses:

- Damaging real or personal property in excess of \$1,000 during the commission of organized retail theft.
- Assaulting an employee or independent contractor of a retail establishment or a law enforcement officer during the commission of the theft of retail property.

Section 3 amends G.S. 14-86.1 to provide that a vehicle used in the commission of organized retail theft is subject to forfeiture.

Section 4 authorizes property seized as evidence for an offense of larceny, organized retail theft, embezzlement, or obtaining property by false pretenses to be returned to the owner prior to trial upon findings that photos or other analyses of the evidence will be sufficient evidence at the time of trial and is not likely to substantially prejudice the rights of the defendant in the criminal trial.

Section 5 amends G.S. 1-538.2, which provides civil liability for offenses of larceny and other offenses, as follows:

- Adds G.S. 14-72.11 (Larceny from a merchant), G.S. 14-86.6 (Organized retail theft), and G.S. 14-86.7 (Damage to property during organized retail theft; assault during organized retail theft) to the offenses covered by the statute.
- Provides that the owner of the property is also entitled to recover for loss to real or personal property caused in the commission of the offense.
- Removes the cap on compensatory damages.
- Increases the cap on consequential damages to \$3,000 (currently \$1,000).
- Adds organized retail theft and damage or assault during organized retail theft to the list of offenses for which there is no cap on consequential damages.

Section 6 amends Chapter 66 (Commerce and Business) to enact a new Article 50 (Regulation of High-Volume Third-Party Sellers Operating on Online Marketplaces). A high-volume third-party seller is defined as an independent seller of consumer goods on an online marketplace that meets the following criteria:

- Has entered into 200 or more separate sales or transactions of new or unused consumer products through the online marketplace to consumers in this State in any continuous 12-month period during the previous 24 months.
- Has an aggregate total of \$5,000 or more in gross revenues for those sales or transactions.
- Processed payment for those sales through the online marketplace or a third party.

This section does the following:

- Requires a high-volume third-party seller to provide certain contact and identifying information to the online marketplace.

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- Requires the online marketplace to verify the information.
- Requires the online marketplace to disclose to consumers certain contact information for high-volume third-party sellers.
- Requires the online marketplace to suspend sales by a high-volume third-party seller that refuses to provide information, provides false information, or otherwise is unresponsive to consumers.
- Authorizes the Attorney General to initiate civil action against an online marketplace that violates this act and to seek public remedies available under Chapter 75 (Monopolies, Trusts, and Consumer Protection).

EFFECTIVE DATE: Sections 1 through 5 of this act become effective December 1, 2022, and apply to offenses committed on or after that date. Section 6 of this act becomes effective January 1, 2023. The remainder of the act became effective June 30, 2022.