



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 495: Revise Money Laundering/Retail Crime.

2023-2024 General Assembly

Committee:	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	Date:	June 4, 2024
Introduced by:	Reps. Crutchfield, Greene, K. Baker	Prepared by:	Robert Ryan
Analysis of:	PCS to First Edition H495-CSCE-35		Committee Co-Counsel

OVERVIEW: The Proposed Committee Substitute (PCS) for House Bill 495 would do the following:

- Create a state criminal offense of "money laundering."
- Make certain changes to the laws related to retail theft, specifically by modifying the laws related to manipulating price tags on retail items.

CURRENT LAW AND BILL ANALYSIS:

Section 1 of the PCS would enact G.S. 14-118.8 to create a new offense of "money laundering."

The offense of money laundering would prohibit the knowing and willing use of the proceeds of criminal activity or criminal funds that alone or aggregated exceed \$10,000 in a variety of ways that are commonly used to conceal the illegal origins of the money and make it appear to be the result of legitimate, legal enterprise. Knowledge of the nature of the criminal activity giving rise to the proceeds would be required to establish a culpable mental state.

Money laundering would be punished at one of two levels as follows:

- A Class H felony if the value of the proceeds of criminal activity is less than \$100,000.
- A Class C felony if the value of the proceeds of criminal activity is \$100,000 or more.

This part also contains the following provisions regarding the offense of money laundering:

- Aggregation. – Allows aggregation of proceeds of criminal activity related to one scheme or continuing course of conduct into one offense and the value of the aggregated offenses to be combined to determine offense classification.
- Forfeiture. – Authorizes forfeiture of all property used in, derived from, maintained by, or realized through a money laundering violation. The forfeiture process may be conducted through either the criminal forfeiture process of G.S. 14-2.3, or the civil forfeiture process of Chapter 75D (Racketeer Influenced and Corrupt Organizations (RICO)).
- Conspiracy. – Provides the same punishment for conspiracy as for the commission of the offense. It would not be a defense to conspiracy that the person with whom they conspired was a law enforcement officer or a person acting at the direction of a law enforcement officer that falsely represented that the funds were proceeds of criminal activity.

Section 2 of the PCS would make changes to the laws related to theft from retail establishments.

Current Law

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Article 16 of Chapter 14 contains the laws related to Organized Retail Theft. G.S. 14-86.5 contains definitions that are used in G.S. 14-86.6, Organized Retail Theft. G.S. 14-86.6(a)(1) provides that it is an offense to conspire with another person to commit theft of retail property with the intent to sell that property or to cause that property to be placed with a "retail property fence," which is defined as a person or business that buys retail property knowing the property to be stolen.

Bill analysis – Sections 2.(a) and (b)

Sections 2.(a) and (b) modify G.S. 14-86.5 and 14-86.6 to no longer require that a defendant intends to place property with a "retail property fence," but rather that the defendant intends to "sell, transfer, or possess" that property for monetary or other gain.

Current Law

G.S. 14-72.1, Concealment of merchandise in mercantile establishments, provides that it is generally a Class 3 misdemeanor to conceal goods or merchandise while on the premises of a store or to transfer a price tag between items in a store so that a higher priced item is labeled with a lower price tag.

Bill analysis – Section 2.(c)

Section 2.(c) modifies G.S. 14-72.1, to clarify that switching a price tag also includes switching a product code or other price mechanism. It also modifies G.S. 14-72.1 to create a new offense which would be a Class H felony if a person switched a pricing mechanism so that there was more than a \$200 difference between the actual price of the item and the price listed on the new price tag.

Current Law

G.S. 14-72.11, Larceny from a merchant, provides that it is a Class H felony to commit larceny against a merchant under certain circumstances, including by deactivating an "antishoplifting or inventory control device" or 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."

Bill analysis – Section 2.(d)

Section 2.(d) modifies G.S. 14-72.11, to provide a definition of "antishoplifting or inventory control device." This section also repeals the offense of "affixing a product code created for the purpose of fraudulently obtaining goods or merchandise from a merchant at less than its actual sale price" and replaces it with three new offenses that separately criminalize fraudulently creating a pricing mechanism for a good, fraudulently affixing a pricing mechanism to a good, and presenting a good for purchase with a fraudulent pricing mechanism.

EFFECTIVE DATE: This bill would become effective December 1, 2024, and apply to offenses committed on or after that date.