

Organized Retail Theft

According to the Federal Bureau of Investigation, organized retail theft losses have amounted to as much as \$30 billion. It is a growing problem for retailers, manufacturers and distributors in this state and throughout the United States. Organized retail theft is committed by professional theft rings which move across communities and states to pilfer merchandise from supermarkets, chain drugstores, independent pharmacies, mass merchandisers, convenience stores, warehouses and transporters, then resell that merchandise in venues including the Internet, at flea markets and to the stores from which it was stolen. Popular targets include infant formula, skin care products, heartburn medications and shaving products.

This SSL draft Act is based on Pennsylvania HB 1720, which became law in 2010. This draft legislation creates penalties for organized retail theft as a felony of the second or third degree, depending upon the retail value of the stolen merchandise.

A 2009 SSL draft Act entitled [Organized Retail Crime](#) allows for the amount of goods stolen to be aggregated into one charge before a defendant goes to trial. That Act also allows grouping multiple offenses together to meet a threshold that imposes stiffer charges on people who commit organized retail theft. The legislation requires establishments which accept large amounts of items for resale to make a reasonable attempt to determine if the items are stolen. The 2009 SSL draft is based on Delaware HB 121, which was enacted into law in 2007.

The 2008 SSL draft Act entitled [Organized Retail Theft](#) creates three crimes. One addresses theft of property with a value of at least \$250 from a mercantile establishment with intent to resell. Another makes it a crime to possess stolen property from a mercantile establishment with a value of at least \$250. The third addresses theft of property from a mercantile establishment when the person leaves through an emergency exit, uses a device designed to overcome security systems, or commits theft at 3 or more mercantile establishments within 180 days. Finally, that Act adds theft with intent to resell and organized retail theft to a list of offenses that can be “criminal profiteering” when punishable as a felony and by imprisonment for more than one year. The 2008 SSL draft is based on Washington Chapter 277 of 2006.

Submitted as:

Pennsylvania

[HB 1720](#)

Status: Enacted into law in 2010.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “The Organized Retail Theft Act.”

2

3 Section 2. [*Definitions.*] As used in this Act:

4 (1) “Merchandise” means any goods, chattels, foodstuffs or wares of any type and
5 description, regardless of the value thereof.

6 (2) “Merchant” means an owner or operator of a retail mercantile establishment or an
7 agent, employee, lessee, consignee, officer, director, franchise or independent contractor of such
8 owner or operator.

9 (3) “Organized retail theft enterprise” means a corporation, partnership or any other type
10 of association, whether or not legally formed, operated for the purpose of engaging in violations
11 of the provisions of [insert citations relating to receiving stolen property or retail theft].

12 (4) “Retail value” means a merchant’s stated or advertised price of merchandise. If
13 merchandise is not traceable to a specific merchant, the stated or advertised price of the
14 merchandise by merchants in the same geographical region.

15
16 Section 3. [*Organized Retail Theft.*]

17 (A) A person commits organized retail theft if the person organizes, coordinates, controls,
18 supervises, finances or manages any of the activities of an organized retail theft enterprise.

19 (B) (1) If the retail value of the stolen merchandise in the possession of or under the
20 control of the organized retail theft enterprise is at least [\$5,000 but not more than \$19,999], the
21 offense is a [felony of the third degree].

22 (2) If the retail value of the stolen merchandise in the possession of or under the
23 control of the organized retail theft enterprise is at least [\$20,000], the offense is a [felony of the
24 second degree].

25
26 Section 4. [*Severability.*] [Insert severability clause.]

27
28 Section 5. [*Repealer.*] [Insert repealer clause.]

29
30 Section 6. [*Effective Date.*] [Insert effective date.]