



SPONSOR: Rep. Miro & Sen. DeLuca;
Reps. Hudson, Valihura

HOUSE OF REPRESENTATIVES
144th GENERAL ASSEMBLY

HOUSE BILL NO. 121

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO SPECIFIC OFFENSES.

1 WHEREAS, organized retail crime involving the obtaining by fraud and theft of merchandise from entities
2 engaged in interstate commerce is a nationwide problem of an increasing scale and cost American companies and
3 consumers \$37 billion in 2006; and

4 WHEREAS, the increasing losses by retailers as a result of organized retail crime have made certain goods and
5 products less available and accessible to Delaware consumers; and

6 WHEREAS, organized retail crime is separate and distinct from shoplifting in that it involves professional theft
7 rings that move quickly from community to community and across state lines, to steal large amounts of merchandise.
8 Shoplifting is limited to items that are stolen by an individual for personal use or gain; and

9 WHEREAS, the uncontrolled redistribution and unsafe storage of stolen and fraudulently obtained consumer
10 products such as baby formula, over-the-counter drugs and other products by persons engaged in such organized crime is a
11 health and safety hazard to Delaware consumers; and

12 WHEREAS, the unregulated black market sales of such fraudulently obtained and stolen merchandise results in
13 millions of dollars in loss of sales and income tax revenues to State and local governments; and

14 WHEREAS, the illegal income from the expanding theft and resale of stolen retail goods is often used to benefit
15 persons and organizations engaged in other forms of organized crime such as drug trafficking, gang activity and terrorism;
16 and

17 WHEREAS, organized retail crime rings often defraud retailers through the use of stolen, altered, or other
18 fraudulent payment mechanisms. In addition, these crime rings also frequently return stolen merchandise to fraudulently
19 obtain refunds; and

20 WHEREAS, organized retail crime rings are increasingly using counterfeit, forged, misappropriated and
21 improperly transferred Universal Product Code labels and other devices employed to identify articles for sale as a method
22 for achieving their ends; and

23 WHEREAS, criminals engaged in organized retail crime often sell stolen merchandise in settings such as swap
24 meets, flea markets and illegal store fronts. These criminals also increasingly use anonymous, internet-based marketplaces
25 to sell goods and avoid detection by law enforcement.

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

27 Section 1. This Act shall be known and may be cited as the Delaware Organized Retail Crime Act.

28 Section 2. (a) It is the intent of the Legislature in enacting this statute to define Organized Retail Crime to
29 provide law enforcement and prosecutorial authorities and the judiciary with an understanding of the unique nature of
30 Organized Retail Crime and to provide them with additional tools to help stop this crime.

31 (b) It is the intent of the Legislature in enacting this statute to facilitate cooperation among law enforcement
32 and prosecutorial authorities by removing jurisdictional barriers and allowing cooperation and assistance across
33 jurisdictions.

34 (c) It is the intent of the Legislature in enacting this statute to limit or remove the ability of criminals engaged
35 in Organized Retail Crime to take advantage of monetary and/or geographic jurisdictional requirements, and the anonymity
36 provided by internet-based or other marketplaces.

37 Section 3. Amend Chapter 5 of Title 11 of the Delaware Code to reletter 841(d) as (e) and enact as a new § 841(d)
38 the following:

39 “(1) A person is guilty of theft when the person takes, exercises control over or obtains property of another
40 person intending to deprive that person of it or appropriate it. Theft is a class A misdemeanor unless the value of the
41 property stolen is \$1,000 or more, or unless the person has twice before been convicted of theft in which case it is a class G
42 felony.

43 (2) Every flea market vendor and every person whose principal business is dealing in, or collecting
44 merchandise or personal property, and every agent, employee or representative of that person who buys or receives any
45 new or unused property that has been stolen or obtained in any manner constituting theft or extortion, under circumstances
46 that should cause the person, agent, employee or representative to make reasonable inquiry to ascertain that the person from
47 whom the property was bought or received had the legal right to sell or deliver it, without making a reasonable inquiry,
48 shall be guilty of a class A misdemeanor unless the value of the property is \$1,000 or more, or unless the person has twice
49 before been convicted of theft or receiving stolen property in which case it is a class G felony.

50 (3) As used in this Section, ‘Organized Retail Crime’ means the theft, embezzlement or obtaining by fraud,
51 false pretenses or other illegal means, of retail merchandise in quantities that would not normally be purchased for personal
52 use or consumption and for the purpose of reselling the items or for reentering the items into commerce; the receipt,

53 possession, concealment, bartering, sale, transport or disposal of any property that is known or should be known to have
54 been stolen, embezzled, or so obtained; or the coordination, organization, facilitation or recruitment of persons to undertake
55 such theft, embezzlement, or obtaining of such receipt, possession, concealment, bartering, sale, transport or disposal.

56 (4) For purposes of this Section, a series of thefts committed by the same person or persons may be
57 aggregated in one (1) count and the sum of the value of all the property shall be the value considered in determining the
58 degree of the theft. Thefts committed by the same person or persons in different counties that have been aggregated in one
59 (1) county may be prosecuted in any county in which one (1) of the thefts or arrests occurred.”.

SYNOPSIS

This Act establishes as a specific crime the felony offense of organized crime with the offense being a class G felony if it is in excess of \$1,000, or has been convicted previously twice before of theft, otherwise it is a class A misdemeanor.