



SPONSOR: Rep. Miro

HOUSE OF REPRESENTATIVES
144th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 2
TO
HOUSE BILL NO. 121

AMEND House Bill No. 121 on line 23 by adding the following at the end of the enactment clause immediately before the colon: "(Two-thirds of all members elected to each house thereof concurring therein)".

FURTHER AMEND House Bill No. 121 by striking lines 37 through 59 in their entireties and by substituting in lieu thereof the following:

"Section 3. Amend §841(a), Chapter 5, Title 11 of the Delaware Code by striking the last sentence of subsection (a) and by substituting in lieu thereof the following: 'Theft includes the acts described in this section, as well as those described in §§841A - 846 of this title.'.

Section 4. Amend Chapter 5, Title 11 of the Delaware Code by adding thereto a new section to read:

‘§841B. Theft: Organized Retail Crime; class A misdemeanor; class E felony.

- (a) A person is guilty of "Theft: Organized Retail Crime" when the person takes, exercises control over, or obtains retail merchandise in quantities that would not normally be purchased for personal use or consumption, with the intent to appropriate it, to deprive the owner of it, or to resell or re-enter the merchandise into commerce.
- (b) For purposes of this section, a series of organized retail crime thefts committed by a person or group of persons may be aggregated into one count, with the sum of the value of all the retail merchandise being the value considered in determining the degree of Theft: Organized Retail Crime.
- (c) In addition to the provisions of §841(c) and (d) of this chapter, if a defendant has two or more times been convicted of Theft: Organized Retail Crime, the offense of Theft: Organized Retail Crime is a class E felony.’”.

SYNOPSIS

This amendment removes surplus language from the bill text, while maintaining the intent of creating the new offense of Theft: Organized Retail Crime. The existing charge of Receiving Stolen Property may be used against persons who buy or receive merchandise obtained from an organized retail crime theft.

Elsewhere in §841 the possible penalties are designated. The new theft charge is a class A misdemeanor if the value of the theft of retail merchandise is less than \$1,000. If the value is \$1,000 or more, it is a class G felony. If the value is more than \$50,000 but less than \$100,000, it is a class E felony; if \$100,000 or more, a class C felony. If the victim is 62 or older, or is an infirm adult or a disabled person, the charge becomes a class G felony instead of a class A misdemeanor, or a class F felony instead of a class G felony. A new penalty is that if a defendant has two or more times been convicted of Theft: Organized Retail Crime, the charge becomes a class E felony.

A class A misdemeanor is punishable by a fine of up to \$2,300 or a term of imprisonment of up to 1 year, or both, and any fines, costs, and conditions that the court orders. A class G felony carries a term of imprisonment of up to 2 years; a class F felony, up to 3 years; a class E felony, up to 5 years; a class C felony, up to 15 years; and as to all: such other fines and penalties as the court considers appropriate. Full restitution to the victim for any monetary losses suffered must also be ordered by the court.