

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Commerce Committee

BILL: SB 1644

INTRODUCER: Senator Gaetz

SUBJECT: Retail Theft

DATE: March 19, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gordon	Cooper	CM	Favorable
2.			CJ	
3.			JA	
4.				
5.				
6.				

I. Summary:

This bill provides an enhanced penalty for retail theft exceeding a specified amount for persons who individually, or in concert with others, coordinate the activities of one or more persons in committing the offense.

The bill amends the Criminal Punishment Code offense severity ranking chart to account for the change to the penalty for retail theft.

This bill amends the following sections of the Florida Statutes: 812.015 and 921.0022.

II. Present Situation:

Organized Retail Theft

Each year, a University of Florida professor, Dr. Richard Hollinger, directs the National Retail Security Survey, which compiles recent empirical data on “loss prevention, asset protection and security activities.”¹ According to the 2006 National Retail Security Survey, a survey of senior loss prevention executives in the retail industry, 93 percent of respondents indicated that organized retail theft is worsening.² In an article about monetary losses from shoplifting and organized crime, a media outlet cited results from the 2005 survey that indicated “the average

¹ University of Florida, Security Research Project, <http://web.crim.ufl.edu/research/srp/srp.html>, (last visited 16 March 2007).

² University of Florida, National Retail Survey, *2006 Organized Retail Crime Survey Results*, available at http://www.nrf.com/modules.php?name=Pages&sp_id=429 (last visited 16 March 2007).

dollar loss per incident of theft jumped to \$854 in 2005 from about \$621 in 2004, largely because of a rise in organized retail crime.”³

The Florida Department of Law Enforcement (FDLE) statistically tracks various forms of larceny⁴ including, pocket picking, purse snatching, shoplifting, from a motor vehicle, motor vehicle parts, bicycles, from a building, devices, and “all other larceny.” According to the Florida Department of Law Enforcement, there were 30,371 shoplifting offenses of its total 229,643 larceny offenses in the first half of 2006.⁵ Those shoplifting incidents accounted for \$55,951,575 worth of stolen property, the costliest form of larceny outside of the “all other larceny” category.

Retail Theft Law in Florida

Section 812.015(1)(d), F.S., defines retail theft as:

[T]he taking possession of or carrying away of merchandise, property, money, or negotiable documents; altering or removing a label, universal product code, or price tag; transferring merchandise from one container to another; or removing a shopping cart, with intent to deprive the merchant of possession, use, benefit or full retail value.

Section 812.015(8), F.S., provides that retail theft in Florida is a third degree felony if the property stolen is valued at \$300 or more and the person:

- (a) Individually, or in concert with one or more other persons, coordinates the activities of one or more individuals in committing the offense, in which case the amount of each individual theft is aggregated to determine the value of the property stolen;
- (b) Commits theft from more than one location within a 48-hour period, in which case the amount of each individual theft is aggregated to determine the value of the property stolen;
- (c) Acts in concert with one or more other individuals within one or more establishments to distract the merchant, merchant’s employee, or law enforcement officer in order to carry out the offense, or acts in other ways to coordinate efforts to carry out the offense; or

³ *Shoplifting Losses Jump 20 Percent*, Houston Chronicle, 2006 WLNR 20335235

⁴ The Federal Bureau of Investigation (FBI) defines larceny as “[t]he unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another. Examples are thefts of bicycles or automobile accessories, shoplifting, pocket-picking, or the stealing of any property or article that is not taken by force and violence or by fraud. Attempted larcenies are included. Embezzlement, confidence games, forgery, worthless checks, etc., are excluded.” Department of Justice, FBI, Crime in the United States 2004, Appendix II-Offenses in Uniform Crime Reporting, http://www.fbi.gov/ucr/cius_04/appendices/appendix_02.html (last visited 16 March 2007).

⁵ FDLE, Crime in Florida, Florida Uniform Crime Report, Total Reported Larceny Offenses generated on 12 March 2007 at the request of Commerce Committee Staff.

(d) Commits the offense through the purchase of merchandise in a package or box that contains merchandise other than, or in addition to, the merchandise purported to be contained in the package or box.

Section 812.015(9), F.S., raises the penalty for repeat offenders and states:

Any person who violates subsection (8) and who has previously been convicted of a violation of subsection (8) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.⁶

III. Effect of Proposed Changes:

Section 1 amends s. 812.815(9), F.S., to specify that a person who individually, or in concert with one or more other person, coordinates the activities of one or more persons in committing the offense of retail theft where the stolen property has a value in excess of \$3,000 commits a felony of the second degree.

Section 2 amends s. 912.0022, F.S., which contains the Offense Severity Ranking Chart, to include retail theft of \$3,000 or more involving the coordination of others as a level 6 offense.

Section 3 provides an effective date of October 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

⁶ A person who has been convicted of a felony of the second degree may receive a term of imprisonment not to exceed 15 years under s. 775.082(3)(c), F.S., up to a \$10,000 fine under s. 775.083(1)(b), F.S., and additional penalties permitted under s. 775.084, F.S., relating to habitual offenders.

B. Private Sector Impact:

This bill may help retailers retain their property, thereby cutting costs to them.

C. Government Sector Impact:

Florida's Office of Economic and Demographic Research during its March 6, 2007, Criminal Justice Impact Conference estimated that an insignificant fiscal impact would be made by this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

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