

SENATE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

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Date

February 6, 2019

Committee on Business, Labor, & Technology.

After consideration on the merits, the Committee recommends the following:

SB19-014 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, page 2, strike lines 2 through 18.

2 Page 3, strike lines 1 through 4 and substitute:

3 "SECTION 1. In Colorado Revised Statutes, **add** 18-4-421 as  
4 follows:

5 **18-4-421. Organized retail theft.** (1) A PERSON COMMITS  
6 ORGANIZED RETAIL THEFT IF HE OR SHE:

7 (a) ACTS IN CONCERT WITH ONE OR MORE PERSONS TO STEAL  
8 MERCHANDISE FROM ONE OR MORE MERCHANTS' PREMISES OR ONLINE  
9 MARKETPLACES WITH THE PURPOSE OF RESELLING OR OTHERWISE  
10 RE-ENTERING THE MERCHANDISE IN COMMERCE, INCLUDING CONVEYING  
11 THE MERCHANDISE TO A MERCHANT IN EXCHANGE FOR ANYTHING OF  
12 VALUE;

13 (b) ACTS IN CONCERT WITH TWO OR MORE PERSONS TO RECEIVE,  
14 PURCHASE, OR POSSESS MERCHANDISE DESCRIBED IN SUBSECTION (1)(a)  
15 OF THIS SECTION, KNOWING OR BELIEVING IT TO HAVE BEEN STOLEN;

16 (c) ACTS AS AN AGENT OF ANOTHER INDIVIDUAL OR GROUP OF  
17 INDIVIDUALS TO STEAL MERCHANDISE FROM ONE OR MORE MERCHANTS'  
18 PREMISES OR ONLINE MARKETPLACES AS PART OF AN ORGANIZED PLAN TO  
19 COMMIT THEFT; OR

20 (d) RECRUITS, COORDINATES, ORGANIZES, SUPERVISES, DIRECTS,  
21 MANAGES, OR FINANCES ANOTHER TO UNDERTAKE ANY OF THE ACTS  
22 DESCRIBED IN SUBSECTION (1)(a) OR (1)(b) OF THIS SECTION OR ANY  
23 OTHER STATUTE DEFINING THEFT.

1 (2) FOR THE PURPOSE OF DETERMINING WHETHER THE DEFENDANT  
2 ACTED IN CONCERT WITH ANOTHER PERSON OR PERSONS IN ANY  
3 PROCEEDING, THE TRIER OF FACT MAY CONSIDER ANY COMPETENT  
4 EVIDENCE, INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING:

5 (a) THAT THE DEFENDANT HAS PREVIOUSLY ACTED IN CONCERT  
6 WITH ANOTHER PERSON OR PERSONS IN COMMITTING ACTS CONSTITUTING  
7 THEFT, OR ANY RELATED OFFENSE, INCLUDING ANY CONDUCT THAT  
8 OCCURRED IN COUNTIES OTHER THAN THE COUNTY OF THE CURRENT  
9 OFFENSE, IF RELEVANT TO DEMONSTRATE A FACT OTHER THAN THE  
10 DEFENDANT'S DISPOSITION TO COMMIT THE ACT;

11 (b) THAT THE DEFENDANT USED OR POSSESSED AN ARTIFICE,  
12 INSTRUMENT, CONTAINER, DEVICE, OR OTHER ARTICLE CAPABLE OF  
13 FACILITATING THE REMOVAL OF MERCHANDISE FROM A RETAIL  
14 ESTABLISHMENT WITHOUT PAYING THE PURCHASE PRICE, AND USE OF THE  
15 ARTIFICE, INSTRUMENT, CONTAINER, OR DEVICE OR OTHER ARTICLE IS  
16 PART OF AN ORGANIZED PLAN TO COMMIT THEFT; OR

17 (c) THAT THE PROPERTY INVOLVED IN THE OFFENSE IS OF A TYPE  
18 OR QUANTITY THAT WOULD NOT NORMALLY BE PURCHASED FOR PERSONAL  
19 USE OR CONSUMPTION AND THE PROPERTY IS INTENDED FOR RESALE.

20 (3) (a) EXCEPT AS PROVIDED IN SUBSECTION (3)(b) OF THIS  
21 SECTION, ORGANIZED RETAIL THEFT IS A CLASS 1 MISDEMEANOR;

22 (b) IF A PERSON WHO HAS PREVIOUSLY BEEN CONVICTED OF A  
23 VIOLATION OF THIS SECTION HAS SUBSEQUENTLY VIOLATED SUBSECTION  
24 (1) OF THIS SECTION ON THREE OR MORE SEPARATE OCCASIONS WITHIN A  
25 SIX-MONTH PERIOD AND THE AGGREGATED, FULL VALUE OF MERCHANDISE  
26 STOLEN, RECEIVED, PURCHASED, OR POSSESSED WITHIN THAT SIX-MONTH  
27 PERIOD MERCHANDISE IS:

28 (I) TWO THOUSAND DOLLARS OR MORE BUT LESS THAN FIVE  
29 THOUSAND DOLLARS, ORGANIZED RETAIL THEFT IS A CLASS 6 FELONY;

30 (II) FIVE THOUSAND DOLLARS OR MORE BUT LESS THAN TWENTY  
31 THOUSAND DOLLARS, ORGANIZED RETAIL THEFT IS A CLASS 5 FELONY;

32 (III) TWENTY THOUSAND DOLLARS OR MORE BUT LESS THAN ONE  
33 HUNDRED THOUSAND DOLLARS, ORGANIZED RETAIL THEFT IS A CLASS 4  
34 FELONY;

35 (IV) ONE HUNDRED THOUSAND DOLLARS OR MORE BUT LESS THAN  
36 ONE MILLION DOLLARS, ORGANIZED RETAIL THEFT IS A CLASS 3 FELONY;  
37 AND

38 (V) ONE MILLION DOLLARS OR MORE, ORGANIZED RETAIL THEFT IS  
39 A CLASS 2 FELONY.

40 (4) UPON A CONVICTION PURSUANT TO THIS SECTION, THE COURT  
41 SHALL CONSIDER ORDERING, AS A CONDITION OF PROBATION IF ORDERED,

1 THAT THE DEFENDANT STAY AWAY FROM RETAIL ESTABLISHMENTS WITH  
2 A REASONABLE NEXUS TO THE CRIME COMMITTED.

3 (5) IN A PROSECUTION UNDER THIS SECTION, THE PROSECUTOR IS  
4 NOT REQUIRED TO CHARGE ANY OTHER CO-PARTICIPANT OF THE  
5 ORGANIZED RETAIL THEFT.

6 (6) NOTHING IN THIS SECTION PRECLUDES PUNISHMENT PURSUANT  
7 TO ANY OTHER SECTION OF LAW."

8 Page 4, line 3, strike "CLASS 2 MISDEMEANOR;" and substitute "CLASS 3  
9 MISDEMEANOR;".

10 Page 4, line 4, strike "CLASS 6 FELONY." and substitute "CLASS 2  
11 MISDEMEANOR."

12 Page 5, strike lines 18 through 25.

13 Renumber succeeding section accordingly.

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