

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 19-0047.01 Michael Dohr x4347

SENATE BILL 19-014

SENATE SPONSORSHIP

Coram, Cooke, Gardner, Scott, Smallwood, Tate

HOUSE SPONSORSHIP

Carver and Tipper,

Senate Committees

Business, Labor, & Technology

House Committees

Judiciary

A BILL FOR AN ACT

101 **CONCERNING REQUIREMENTS THAT SECONDHAND DEALERS RECORD**
102 **TRANSACTIONS INVOLVING STORE VALUE CARDS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates the crime of retail theft with special circumstances if a person commits theft from a store with one of the following special circumstances:

- ! The person is, at the time of the theft, in possession of an item, article, implement, or device used or designed to overcome security systems, including but not limited to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
Amended 2nd Reading
March 19, 2019

SENATE
3rd Reading Unamended
February 14, 2019

SENATE
Amended 2nd Reading
February 13, 2019

lined bags or tag removers, under circumstances indicating an intent to use or employ the item, article, implement, or device for such purposes; or

! To facilitate the theft, the person utilizes an organized effort of multiple persons to remove items from the store with the intent to resell the items.

Retail theft with special circumstances is a class 5 felony.

The bill requires secondhand dealers who purchase gift cards to keep a record of those purchases. Failure to record the purchases in an electronic database is a class 2 misdemeanor for a first offense and a class 6 felony for a second or subsequent offense.

The bill adds a gift card to the definition of a "valuable article", which triggers certain record-keeping requirements.



1 *Be it enacted by the General Assembly of the State of Colorado:*

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4 **SECTION 1.** In Colorado Revised Statutes, **amend** 18-13-117 as
5 follows:

6 **18-13-117. Record of sales.** (1) (a) Every secondhand dealer or
7 any person who is a dealer of new goods who is a retailer and sells such
8 goods at a flea market or similar facility or any nonpermanent location
9 shall keep and preserve suitable records of sales made by him OR HER and
10 such other books or accounts as may be necessary to determine the
11 amount of tax for the collection of which he OR SHE is liable under part
12 1 of article 26 of title 39. ~~C.R.S.~~ It is the duty of every such person to
13 keep and preserve for a period of three years all invoices of goods and
14 merchandise purchased for resale, INCLUDING A STORE CREDIT, GIFT CARD,
15 OR MERCHANDISE CARD, and all such books, invoices, and other records
16 shall be open for examination at any time by the executive director of the
17 department of revenue, his OR HER duly authorized agent, or any peace
18 officer.

1 (b) EVERY SECONDHAND DEALER OR ANY PERSON WHO IS A
2 DEALER OF NEW GOODS WHO IS A RETAILER AND SELLS SUCH GOODS AT A
3 FLEA MARKET OR SIMILAR FACILITY OR ANY NONPERMANENT LOCATION
4 SHALL RECORD THE PURCHASE OF A STORE CREDIT, GIFT CARD, OR
5 MERCHANDISE CARD FOR RESALE IN A REGISTER, AS DESCRIBED IN SECTION
6 18-16-105, THAT IS ACCESSIBLE TO LAW ENFORCEMENT.

7 (2) (a) Any person who violates any of the provisions of
8 ~~subsection (1)~~ SUBSECTION (1)(a) of this section commits a class 3
9 misdemeanor.

10 (b) ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBSECTION
11 (1)(b) OF THIS SECTION COMMITS A CLASS 3 MISDEMEANOR.

12 **SECTION 2.** In Colorado Revised Statutes, 18-16-102, **amend**
13 the introductory portion; and **add** (7)(c) as follows:

14 **18-16-102. Definitions.** As used in this ~~article~~ ARTICLE 16, unless
15 the context otherwise requires:

16 (7) (c) "VALUABLE ARTICLE" ALSO INCLUDES A STORE CREDIT,
17 GIFT CARD, OR MERCHANDISE CARD OF ANY VALUE NOT ISSUED BY THE
18 PERSON.

19 **SECTION 3.** In Colorado Revised Statutes, 29-11.9-103, **amend**
20 (1), (2), (3), and (4) as follows:

21 **29-11.9-103. Required acts of pawnbrokers.** (1) A pawnbroker
22 shall ~~keep a numerical register or other tangible or electronic record in~~
23 ~~which the pawnbroker shall~~ record the following information IN A
24 REGISTER, AS DESCRIBED IN SECTION 18-16-105: The name, address, and
25 date of birth of the customer and the driver's license number or other
26 identification number from any other form of identification that is
27 allowed for the sale of valuable articles pursuant to section 18-16-103 or

1 for the sale of secondhand property pursuant to section 18-13-114; the
2 date, time, and place of the contract for purchase or purchase transaction;
3 ~~and~~ an accurate and detailed account and description of each item of
4 tangible personal property, including but not limited to any trademark,
5 identification number, serial number, model number, brand name, or other
6 identifying marks on such property; AND, FOR A STORE CREDIT, GIFT CARD,
7 OR MERCHANDISE CARD, THE IDENTIFICATION NUMBER, NAME OF THE
8 RETAILER, AND THE VALUE OF CREDIT OR CARD. The pawnbroker shall
9 also obtain a written declaration of the customer's ownership, which shall
10 state that the tangible personal property is totally owned by the customer,
11 or shall have attached to the declaration a power of sale from the partial
12 owner to the customer, how long the customer has owned the property,
13 whether the customer or someone else found the property, and, if the
14 property was found, the details of the finding.

15 (2) The customer shall sign the ~~register or other tangible or~~
16 electronic record and the declaration of ownership and shall receive a
17 copy of the contract for purchase or a receipt of the purchase transaction.

18 (3) The ~~register or other tangible or~~ electronic record, as well as
19 a copy of the contract for purchase or a receipt of the purchase
20 transaction, shall be made ~~available~~ ACCESSIBLE to any local law
21 enforcement agency for inspection at any reasonable time.

22 (4) The pawnbroker shall keep each ~~register or other tangible or~~
23 electronic record for at least three years after the date of the last
24 transaction entered in the register.

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26 **SECTION 4. Act subject to petition - effective date -**
27 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following

1 the expiration of the ninety-day period after final adjournment of the
2 general assembly (August 2, 2019, if adjournment sine die is on May 3,
3 2019); except that, if a referendum petition is filed pursuant to section 1
4 (3) of article V of the state constitution against this act or an item, section,
5 or part of this act within such period, then the act, item, section, or part
6 will not take effect unless approved by the people at the general election
7 to be held in November 2020 and, in such case, will take effect on the
8 date of the official declaration of the vote thereon by the governor.

9 (2) This act applies to offenses committed on or after the
10 applicable effective date of this act.