

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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SENATE BILL 1270  
Judiciary II (Criminal) Committee Substitute Adopted 5/8/07  
Appropriations/Base Budget Committee Substitute Adopted 6/28/07

Short Title: Amend Larceny Laws.

(Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND VARIOUS LARCENY STATUTES AND TO CREATE THE  
CRIMINAL OFFENSES OF THEFT OF INFANT FORMULA AND ORGANIZED  
RETAIL THEFT.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 14-71 reads as rewritten:

"§ 14-71. **Receiving stolen goods.**

If any person shall receive any chattel, property, money, valuable security or other thing whatsoever, the stealing or taking whereof amounts to larceny or a felony, either at common law or by virtue of any statute made or hereafter to be made, such person knowing or having reasonable grounds to believe the same to have been feloniously stolen or taken, whether or not the item has been feloniously stolen or taken, he shall be guilty of a Class H felony, and may be indicted and convicted, whether the felon stealing and taking such chattels, property, money, valuable security or other thing, shall or shall not have been previously convicted, or shall or shall not be amenable to justice; and any such receiver may be dealt with, indicted, tried and punished in any county in which he shall have, or shall have had, any such property in his possession or in any county in which the thief may be tried, in the same manner as such receiver may be dealt with, indicted, tried and punished in the county where he actually received such chattel, money, security, or other thing; and such receiver shall be punished as one convicted of larceny."

**SECTION 2.** G.S. 14-72 reads as rewritten:

"§ 14-72. **Larceny of property; receiving stolen goods or possessing stolen goods.**

(a) Larceny of goods of the value of more than one thousand dollars (\$1,000) is a Class H felony. The receiving or possessing of stolen goods of the value of more than one thousand dollars (\$1,000) while knowing or having reasonable grounds to believe that the goods are stolen is a Class H felony. Larceny as provided in subsection (b) of this section is a Class H felony. Receiving or possession of stolen goods as provided in

1 subsection (c) of this section is a Class H felony. Except as provided in subsections (b)  
2 and (c) of this section, larceny of property, or the receiving or possession of stolen  
3 goods knowing or having reasonable grounds to believe them to be stolen, where the  
4 value of the property or goods is not more than one thousand dollars (\$1,000), is a Class  
5 1 misdemeanor. In all cases of doubt, the jury shall, in the verdict, fix the value of the  
6 property stolen.

7 (b) ~~The~~ Except as provided in sub-subdivisions (6)d. and (6)e. of this subsection,  
8 the crime of larceny is a felony, without regard to the value of the property in question,  
9 if the larceny is any of the following:

10 (1) From the person.

11 (2) Committed pursuant to a violation of G.S. 14-51, 14-53, 14-54,  
12 14-54.1, or 14-57.

13 (3) Of any explosive or incendiary device or substance. As used in this  
14 section, the phrase "explosive or incendiary device or substance" shall  
15 include any explosive or incendiary grenade or bomb; any dynamite,  
16 blasting powder, nitroglycerin, TNT, or other high explosive; or any  
17 device, ingredient for such device, or type or quantity of substance  
18 primarily useful for large-scale destruction of property by explosive or  
19 incendiary action or lethal injury to persons by explosive or incendiary  
20 action. This definition shall not include fireworks; or any form, type,  
21 or quantity of gasoline, butane gas, natural gas, or any other substance  
22 having explosive or incendiary properties but serving a legitimate  
23 nondestructive or nonlethal use in the form, type, or quantity stolen.

24 (4) Of any firearm. As used in this section, the term "firearm" shall  
25 include any instrument used in the propulsion of a shot, shell or bullet  
26 by the action of gunpowder or any other explosive substance within it.  
27 A "firearm," which at the time of theft is not capable of being fired,  
28 shall be included within this definition if it can be made to work. This  
29 definition shall not include air rifles or air pistols.

30 (5) Of any record or paper in the custody of the North Carolina State  
31 Archives as defined by G.S. 121-2(7) and G.S. 121-2(8).

32 (6) From any merchant:

33 a. By using an exit door erected and maintained to comply with  
34 the requirements of 29 C.F.R. § 1910 Subpart E, upon which  
35 door has been placed a notice, sign, or poster providing  
36 information about the felony offense and punishment provided  
37 under this subsection, to exit the premises of a store.

38 b. By removing, destroying, or deactivating any component of an  
39 antishoplifting or inventory control device to prevent the  
40 activation of any antishoplifting or inventory control device.

41 c. By affixing a product code obtained or created by the person for  
42 the purpose of fraudulently obtaining goods or merchandise  
43 from a merchant at less than its actual sale price.

- 1                   d.     When the property is infant formula as defined in 21 U.S.C. §  
2                             321(z) valued in excess of one hundred dollars (\$100.00).  
3                   e.     When the value of the property is more than five hundred  
4                             dollars (\$500.00) and the larceny of the property is the result of  
5                             a conspiracy between two or more individuals.

6           (c)     The crime of possessing stolen goods knowing or having reasonable grounds  
7     to believe them to be stolen in the circumstances described in subsection (b) is a felony  
8     or the crime of receiving stolen goods knowing or having reasonable grounds to believe  
9     them to be stolen in the circumstances described in subsection (b) is a felony, without  
10    regard to the value of the property in ~~question-question~~, except as provided in  
11    sub-subdivisions (6)d. and (6)e. of subsection (b) of this section.

12           (d)     Where the larceny or receiving or possession of stolen goods as described in  
13    subsection (a) of this section involves the merchandise of any store, a merchant, a  
14    merchant's agent, a merchant's employee, or a peace officer who detains or causes the  
15    arrest of any person shall not be held civilly liable for detention, malicious prosecution,  
16    false imprisonment, or false arrest of the person detained or arrested, when such  
17    detention is upon the premises of the store or in a reasonable proximity thereto, is in a  
18    reasonable manner for a reasonable length of time, and, if in detaining or in causing the  
19    arrest of such person, the merchant, the merchant's agent, the merchant's employee, or  
20    the peace officer had, at the time of the detention or arrest, probable cause to believe  
21    that the person committed an offense under subsection (a) of this section. If the person  
22    being detained by the merchant, the merchant's agent, or the merchant's employee, is a  
23    minor under the age of 18 years, the merchant, the merchant's agent, or the merchant's  
24    employee, shall call or notify, or make a reasonable effort to call or notify the parent or  
25    guardian of the minor, during the period of detention. A merchant, a merchant's agent,  
26    or a merchant's employee, who makes a reasonable effort to call or notify the parent or  
27    guardian of the minor shall not be held civilly liable for failing to notify the parent or  
28    guardian of the minor."

29           **SECTION 3.** Chapter 14 of the General Statutes is amended by adding a  
30    new Article to read:

31                             "Article 16A.

32                             "Organized Retail Theft.

33    "§ 14-86.5. Definitions.

34           The following definitions apply in this Article:

- 35           (1)     "Retail property". – Any new article, product, commodity, item, or  
36                     component intended to be sold in retail commerce.  
37           (2)     "Retail property fence". – A person or business that buys retail  
38                     property knowing or believing that retail property is stolen.  
39           (3)     "Theft". – To take possession of, carry away, transfer, or cause to be  
40                     carried away the retail property of another with the intent to steal the  
41                     retail property.  
42           (4)     "Value". – The retail value of an item as advertised by the affected  
43                     retail establishment, to include all applicable taxes.

44    "§ 14-86.6. Organized retail theft.

1       (a) Offense: Organized Retail Theft. – A person who conspires with another  
2 person to commit theft of retail property from a retail establishment, with a value  
3 exceeding one thousand five hundred dollars (\$1,500) aggregated over a 90-day period,  
4 with the intent to sell that retail property for monetary or other gain, and who takes or  
5 causes that retail property to be placed in the control of a retail property fence or other  
6 person in exchange for consideration is guilty of a Class G felony.

7       (b) Offense: Receiving and Possessing Retail Property Obtained by Organized  
8 Retail Theft. – A person who receives or possesses, with the intent to distribute, any  
9 retail property into interstate commerce which has been taken or stolen in violation of  
10 this section is guilty of a Class G felony.

11       (c) Explicit Representation of Theft of Retail Property. – It is not a defense to a  
12 charge of receiving stolen retail property in violation of this section that the retail  
13 property was obtained by means other than through the commission of a theft offense if  
14 the retail property was explicitly represented to the accused person as being obtained  
15 through the commission of a theft offense.

16       (d) Venue. – Venue for criminal actions to enforce the provisions of this section,  
17 including criminal actions with respect to each of the offenses included within  
18 organized retail theft as defined by this section that have been committed, attempted, or  
19 conspired to be committed by two or more persons, shall be in any county in which at  
20 least one criminal offense has occurred that constitutes part of the organized retail theft  
21 offenses. It is the intent of the General Assembly that one State court may have  
22 jurisdiction over all the conduct, persons, and retail property which are part of, or are  
23 directly related to, each and all of the criminal offenses forming part of the organized  
24 retail theft offenses; however, it is discretionary, not mandatory, to bring all criminal  
25 actions in one jurisdiction when organized retail theft offenses involve two or more  
26 counties.

27       (e) Forfeiture. – Any person who violates any provision of this section shall  
28 forfeit to the State any interest the person has acquired or maintained in violation of this  
29 section."

30       **SECTION 4.** This act becomes effective December 1, 2007, and applies to  
31 offenses committed on or after that date.