

1-1 By: Flores, et al. S.B. No. 1300
1-2 (In the Senate - Filed February 14, 2025; February 28, 2025,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 March 13, 2025, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; March 13, 2025, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to the prosecution and punishment of the criminal offense
1-18 of organized retail theft; increasing criminal penalties.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Chapter 21, Code of Criminal Procedure, is
1-21 amended by adding Article 21.155 to read as follows:

1-22 Art. 21.155. ORGANIZED RETAIL THEFT. (a) In this article,
1-23 "merchant" has the meaning assigned by Section 31.01, Penal Code.

1-24 (b) Notwithstanding Article 21.09, an indictment or
1-25 information in the prosecution of an offense under Section 31.16,
1-26 Penal Code, shall not be held insufficient for failure to name or
1-27 describe each item of property stolen. It shall be sufficient to
1-28 name the merchant and, if the offense level is based on a value of
1-29 the property stolen, the aggregate value range of the stolen
1-30 property applicable to the offense being alleged.

1-31 SECTION 2. Chapter 38, Code of Criminal Procedure, is
1-32 amended by adding Article 38.51 to read as follows:

1-33 Art. 38.51. EVIDENCE IN PROSECUTION FOR ORGANIZED RETAIL
1-34 THEFT. (a) In this article, "merchant" and "retail merchandise"
1-35 have the meanings assigned by Section 31.01, Penal Code.

1-36 (b) In the prosecution of an offense under Section 31.16,
1-37 Penal Code:

1-38 (1) if issues of intent, knowledge, and whether the
1-39 defendant was acting in concert with one or more other persons are
1-40 raised by the defendant's plea of not guilty, evidence that the
1-41 defendant has participated in any theft offense, other than a theft
1-42 offense that forms the basis of the offense under Section 31.16,
1-43 Penal Code, on which the prosecution is based, is admissible:

1-44 (A) for the purpose of showing intent or
1-45 knowledge; or

1-46 (B) as evidence that the defendant was acting in
1-47 concert with one or more other persons;

1-48 (2) the unaltered price tag or other marking on retail
1-49 merchandise identifying the price of the retail merchandise is
1-50 prima facie evidence of the value of the retail merchandise for
1-51 purposes of Section 31.08(a-1), Penal Code; and

1-52 (3) a price tag or other marking described by
1-53 Subdivision (2) that identifies or is unique to a merchant is prima
1-54 facie evidence of the merchant's ownership of the retail
1-55 merchandise.

1-56 SECTION 3. Section 31.01, Penal Code, is amended by
1-57 amending Subdivision (11) and adding Subdivision (15) to read as
1-58 follows:

1-59 (11) "Retail merchandise" means one or more items of
1-60 tangible personal property displayed, held, stored, or offered for
1-61 sale by a merchant [in a retail establishment]. The term includes a

2-1 gift card.

2-2 (15) "Merchant" means any business that sells items to
2-3 the public.

2-4 SECTION 4. Section 31.08, Penal Code, is amended by
2-5 amending Subsections (a), (c), and (d) and adding Subsection (a-1)
2-6 to read as follows:

2-7 (a) Subject to the additional criteria of Subsections
2-8 (a-1), (b), and (c), value under this chapter is:

2-9 (1) the fair market value of the property or service at
2-10 the time and place of the offense; or

2-11 (2) if the fair market value of the property cannot be
2-12 ascertained, the cost of replacing the property within a reasonable
2-13 time after the theft.

2-14 (a-1) In the prosecution of an offense under Section 31.16
2-15 involving retail merchandise stolen from a merchant, the value of
2-16 the stolen retail merchandise is:

2-17 (1) the sales price of the retail merchandise as
2-18 stated, posted, or advertised by the merchant, including applicable
2-19 sales tax, at the time of the offense; or

2-20 (2) the rental price of the retail merchandise as
2-21 stated, posted, or advertised by the merchant, including applicable
2-22 sales tax, at the time of the offense plus the cost of replacing the
2-23 retail merchandise within a reasonable time after the offense.

2-24 (c) If property or service has value that cannot be
2-25 reasonably ascertained by the criteria set forth in Subsections
2-26 (a), (a-1), and (b), the property or service is deemed to have a
2-27 value of \$750 or more but less than \$2,500.

2-28 (d) If the actor proves by a preponderance of the evidence
2-29 that the actor ~~he~~ gave consideration for or had a legal interest
2-30 in the property or service stolen, the amount of the consideration
2-31 or the value of the interest so proven shall be deducted from the
2-32 value of the property or service ascertained under Subsection (a),
2-33 (a-1), (b), or (c) to determine value for purposes of this chapter.

2-34 SECTION 5. Section 31.16, Penal Code, is amended to read as
2-35 follows:

2-36 Sec. 31.16. ORGANIZED RETAIL THEFT. (a) [~~(b)~~] A person
2-37 commits an offense if the person:

2-38 (1) acting in concert with one or more other persons,
2-39 unlawfully appropriates retail merchandise, money, or other
2-40 property from a merchant with the intent to deprive the merchant of
2-41 the property;

2-42 (2) on two or more occasions within a 180-day period,
2-43 unlawfully appropriates retail merchandise, money, or other
2-44 property from a merchant with the intent to deprive the merchant of
2-45 the property;

2-46 (3) knowingly obtains a benefit from conduct
2-47 constituting an offense under Subdivision (1) or (2) that was
2-48 committed by another person; or

2-49 (4) knowingly acts in concert with one or more other
2-50 persons to overwhelm the security response of a merchant or a peace
2-51 officer for the purpose of committing an offense under Subdivision
2-52 (1) or (2) or avoiding detection or apprehension for the offense
2-53 [intentionally conducts, promotes, or facilitates an activity in
2-54 which the person receives, possesses, conceals, stores, barter,
2-55 sells, or disposes of:

2-56 [(1) stolen retail merchandise; or

2-57 [(2) merchandise explicitly represented to the person
2-58 as being stolen retail merchandise].

2-59 (b) In the prosecution of an offense under this section:

2-60 (1) Sections 31.03(b) and (c) apply to the offense for
2-61 purposes of determining whether property was unlawfully
2-62 appropriated from a merchant; and

2-63 (2) a person is presumed to have acted with the intent
2-64 to deprive a merchant of retail merchandise if the person:

2-65 (A) altered or removed a label, universal product
2-66 code, price tag, or retail theft detector for retail merchandise;
2-67 or

2-68 (B) transferred retail merchandise from the
2-69 merchandise's packaging into other packaging.

3-1 (c) It is not a defense to prosecution under this section
 3-2 that:
 3-3 (1) a person who acted in concert with the actor has
 3-4 not been charged, convicted, apprehended, or identified;
 3-5 (2) the offense occurred as a result of a deception or
 3-6 strategy on the part of a law enforcement agency, including the use
 3-7 of an undercover operative or peace officer;
 3-8 (3) the actor was provided by a law enforcement agency
 3-9 with a facility in which to commit the offense or an opportunity to
 3-10 engage in conduct constituting the offense; or
 3-11 (4) the actor was solicited to commit the offense by a
 3-12 peace officer, and the solicitation was of a type that would
 3-13 encourage a person predisposed to commit the offense to actually
 3-14 commit the offense but would not encourage a person not predisposed
 3-15 to commit the offense to actually commit the offense.

3-16 (d) An offense under this section is:
 3-17 (1) a Class B [C] misdemeanor if the total value of the
 3-18 property [merchandise] involved in the offense [activity] is less
 3-19 than \$100;
 3-20 (2) a Class A [B] misdemeanor if the total value of the
 3-21 property [merchandise] involved in the offense [activity] is \$100
 3-22 or more but less than \$750;
 3-23 (3) a state jail felony [Class A misdemeanor] if the
 3-24 total value of the property [merchandise] involved in the offense
 3-25 [activity] is \$750 or more but less than \$2,500;
 3-26 (4) a [state jail] felony of the third degree if the
 3-27 total value of the property [merchandise] involved in the offense
 3-28 [activity] is \$2,500 or more but less than \$30,000;
 3-29 (5) a felony of the second [third] degree if the total
 3-30 value of the property [merchandise] involved in the offense
 3-31 [activity] is \$30,000 or more but less than \$150,000;
 3-32 (6) a felony of the first [second] degree if the total
 3-33 value of the property [merchandise] involved in the offense
 3-34 [activity] is \$150,000 or more but less than \$300,000; or
 3-35 (7) a felony of the first degree punishable by
 3-36 imprisonment in the Texas Department of Criminal Justice for life
 3-37 or for any term of not more than 99 years or less than 15 years, and
 3-38 a fine not to exceed \$250,000, if the total value of the property
 3-39 [merchandise] involved in the offense [activity] is \$300,000 or
 3-40 more.

3-41 (e) For purposes of enhancement of penalties under
 3-42 Subchapter D, Chapter 12, a person is considered to have been
 3-43 convicted of an offense under this section if the person was
 3-44 adjudged guilty of the offense or entered a plea of guilty or nolo
 3-45 contendere in return for a grant of deferred adjudication community
 3-46 supervision, regardless of whether the sentence for the offense was
 3-47 ever imposed or whether the sentence was probated and the person was
 3-48 subsequently discharged from community supervision

3-49 ~~[(d) An offense described for purposes of punishment by~~
 3-50 ~~Subsections (c)(1)-(6) is increased to the next higher category of~~
 3-51 ~~offense if it is shown on the trial of the offense that:~~

3-52 ~~[(1) the person organized, supervised, financed, or~~
 3-53 ~~managed one or more other persons engaged in an activity described~~
 3-54 ~~by Subsection (b); or~~

3-55 ~~[(2) during the commission of the offense, a person~~
 3-56 ~~engaged in an activity described by Subsection (b) intentionally,~~
 3-57 ~~knowingly, or recklessly.~~

3-58 ~~[(A) caused a fire exit alarm to sound or~~
 3-59 ~~otherwise become activated;~~

3-60 ~~[(B) deactivated or otherwise prevented a fire~~
 3-61 ~~exit alarm or retail theft detector from sounding; or~~

3-62 ~~[(C) used a shielding or deactivation instrument~~
 3-63 ~~to prevent or attempt to prevent detection of the offense by a~~
 3-64 ~~retail theft detector].~~

3-65 SECTION 6. The changes in law made by this Act apply only to
 3-66 an offense committed on or after the effective date of this Act. An
 3-67 offense committed before the effective date of this Act is governed
 3-68 by the law in effect on the date the offense was committed, and the
 3-69 former law is continued in effect for that purpose. For purposes of

4-1 this section, an offense was committed before the effective date of
4-2 this Act if any element of the offense occurred before that date.
4-3 SECTION 7. This Act takes effect September 1, 2025.

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