

By: Pena

H.B. No. 2482

A BILL TO BE ENTITLED

AN ACT

relating to the offense of organized retail theft.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.16, Penal Code, is amended to read as follows:

Sec. 31.16. ORGANIZED RETAIL THEFT. (a) In this section:

(1) "Boost" means to commit an offense under Section 31.03 with respect to retail merchandise.

(2) "Fire exit alarm" has the meaning assigned by Section 793.001, Health and Safety Code.

(3) "Retail[, ~~retail~~] merchandise" means one or more items of tangible personal property displayed, held, stored, or offered for sale in a retail establishment.

(4) "Retail theft detector" and "shielding or deactivation instrument" have the meanings assigned by Section 31.15.

(b) A person commits an offense if the person:

(1) alone or with the aid or assistance of another person, and pursuant to one scheme or continuing course of conduct, boosts:

(A) one or more items of retail merchandise:

(i) from more than one retail establishment; or

(ii) from the same retail establishment on

more than one occasion; or

(B) more than one of the same or similar items of retail merchandise from a single retail establishment on a single occasion; or

(2) intentionally conducts, promotes, or facilitates an activity in which the person receives, possesses, conceals, stores, barter, sells, or disposes of [a total value of not less than \$1,500 of]:

(A) [(1)] stolen retail merchandise; or

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

(c) An offense under this section is:

(1) a Class B misdemeanor if the total value of the merchandise involved in the activity is less than \$500;

(2) a Class A misdemeanor if the total value of the merchandise involved in the activity is \$500 or more but less than \$1,500;

(3) a state jail felony if the total value of the merchandise involved in the activity is \$1,500 or more but less than \$20,000;

(4) [(2)] a felony of the third degree if the total value of the merchandise involved in the activity is \$20,000 or more but less than \$100,000;

(5) [(3)] a felony of the second degree if the total value of the merchandise involved in the activity is \$100,000 or more but less than \$200,000; or

(6) [(4)] a felony of the first degree if the total

value of the merchandise involved in the activity is \$200,000 or more.

(d) An offense described for purposes of punishment by Subsections (c)(1)-(5) [~~(c)(1)-(3)~~] is increased to the next higher category of offense if it is shown on the trial of the offense that the person organized, supervised, financed, or managed one or more other persons engaged in an activity described by Subsection (b).

(e) For the purposes of punishment, an offense under this section or an offense described by Section 31.03(e)(1) or (2) is increased to the next highest category of offense if it is shown at the trial of the offense that the defendant, during [~~with the intent that a distraction from~~] the commission of the offense [~~be created~~], intentionally, knowingly, or recklessly:

(1) caused a fire exit [~~an~~] alarm to sound or otherwise become activated;

(2) deactivated or otherwise prevented a fire exit alarm from sounding; or

(3) used a shielding or deactivation instrument to prevent or attempt to prevent detection of the offense by a retail theft detector [~~during the commission of the offense~~].

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred

1 before that date.

2 SECTION 3. This Act takes effect September 1, 2011.