

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO CRIMINAL OFFENSES -- ORGANIZED RETAIL CRIME ACT OF 2022

Introduced By: Representatives Kennedy, Azzinaro, Edwards, and Diaz

Date Introduced: March 02, 2022

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 11 of the General Laws entitled "CRIMINAL OFFENSES" is hereby  
2 amended by adding thereto the following chapter:

3 CHAPTER 41.3

4 ORGANIZED RETAIL CRIME ACT OF 2022

5 **11-41.3-1. Short title.**

6 This chapter shall be known and may be cited as the "Organized Retail Crime Act of 2022".

7 **11-41.3-2. The general assembly finds:**

8 (1) Organized retail crime involving the obtaining by fraud and theft of retail merchandise  
9 from entities, storeowners, shopkeepers, malls and other places that are engaged in the retail selling  
10 of clothing, accessories and other goods is a nationwide problem of an increasing scale and costs  
11 American businesses millions of dollars annually.

12 (2) The increasing losses by retailers as a result of organized retail crime make certain  
13 goods and products less available and accessible to American consumers.

14 (3) The uncontrolled redistribution and unsafe storage of stolen and fraudulently obtained  
15 consumer products such as baby formula, over-the-counter drugs, and other products by persons  
16 engaged in such organized retail crime is a health and safety hazard to American consumers.

17 (4) The unregulated black-market sales of such fraudulently obtained and stolen  
18 merchandise results in an annual loss in much needed sales and income tax revenues to state and  
19 local governments.

1           (5) The illegal income from the expanding theft and resale of stolen retail goods is  
2 reasonably believed to benefit persons and organizations engaged in other forms of criminal activity  
3 such as drug trafficking, gang activity, and terrorism.

4           (6) Organized retail crime rings often obtain retail merchandise through the use of checks  
5 for which there are insufficient funds or that are forged or stolen, frequently returning the  
6 merchandise to fraudulently obtain refunds. Such practices create major problems for the retail  
7 industry and the national banking system.

8           (7) Organized retail crime rings are increasingly entering retail establishments in large  
9 numbers of people, utilizing smash and grab techniques of stealing, utilizing force and threats to  
10 deter retail stores and their employees from stopping the activity, using counterfeit, forged,  
11 misappropriated, and improperly transferred Universal Product Code labels and other devices  
12 employed to identify articles for sale as a method for achieving their ends.

13           (8) The dramatic growth of organized retail crime and the unfettered resale of such stolen  
14 and fraudulently obtained goods in national and international Internet-based marketplaces has  
15 resulted in effective evasion by such resellers of state and local regulations on secondhand goods  
16 and article resellers which had traditionally been used to control the possession, resale, and transfer  
17 of stolen goods.

18           (9) The unrestricted expansion of anonymous Internet-based marketplaces for stolen and  
19 fraudulently obtained goods has resulted in a dramatic increase in the deployment of organized  
20 retail crime rings seeking to sell stolen goods in Internet-based marketplaces.

21           (10) Conduct constituting organized retail crime and conduct facilitating organized retail  
22 crime results in risk of physical harm to employees of retail stores and innocent bystanders and  
23 further results in property damage to these American businesses.

24           (b) Purpose. In light of the above findings, the purposes of this act are to protect consumers,  
25 retailers, the national banking system, and state and local governments from the more than thirty  
26 billion dollar (\$30,000,000,000) annual problem of organized retail crime as well as the related  
27 adverse health and safety risks it creates.

28           **11-41.3-3. Organized retail crime - Definition.**

29           As used in this chapter, "organized retail crime" means:

30           (1) The concerted action by at least three (3) or more people who acting together, steal,  
31 embezzle, or obtain by force, threats of force, or that ransack, or smash doors or windows of retail  
32 establishments in order to steal and make off with retail items or those in concert with each other  
33 and by fraud, false pretenses, or other illegal means, steal retail merchandise in quantities that  
34 would not normally be purchased for personal use or consumption for the purpose of reselling or

1 otherwise reentering such retail merchandise in commerce;

2 (2) Engages in organized retail crime involving receiving, possessing, concealing, storing,  
3 bartering, selling, or disposing of any goods, wares, or merchandise, with a value of five thousand  
4 dollars (\$5,000) or more; or

5 (3) The recruitment of persons to undertake, or the coordination, organization, or  
6 facilitation of, such stealing, embezzlement, or obtaining by fraud, false pretenses, or other illegal  
7 means.

8 **11-41.3-4. Organized retail crime prohibited.**

9 (a) A person shall be guilty of organized retail crime when that person, alone or in  
10 association with another person, does any of the following:

11 (1) Knowingly commits an organized retail crime;

12 (2) Organizes, supervises, finances, or otherwise manages or assists two (2) or more other  
13 persons in committing an organized retail crime;

14 (3) Removes, destroys, deactivates, or knowingly evades any component of an  
15 antishoplifting or inventory control device to prevent the activation of that device or to facilitate  
16 other persons in committing an organized retail crime;

17 (4) Conspires with other persons to commit an organized retail crime;

18 (5) Receives, purchases, or possesses retail merchandise for sale or resale knowing or  
19 believing the retail merchandise to be stolen from a retail merchant;

20 (6) Uses any artifice, instrument, container, device, or other article to facilitate the  
21 commission of an organized retail crime act; or

22 (7) Knowingly causes a fire exit alarm to sound or otherwise activate, or deactivates or  
23 prevents a fire exit alarm from sounding, in the commission of an organized retail crime or to  
24 facilitate the commission of an organized retail crime by another person.

25 (b) Anyone who violates the provisions of subsection (a) of this section shall be punished  
26 by imprisonment for not more than five (5) years or a fine of five thousand dollars (\$5,000), or  
27 both.

28 **11-41.3-5. Pawn shops, second hand stores, consignment shops, online marketplace -**  
29 **Requirements.**

30 (a) It shall be unlawful for an operator of any pawn shop, second hand store, consignment  
31 shop or online marketplace to fail to:

32 (1) Expediently investigate when credible evidence of sales of goods or services acquired  
33 through a seller with no proof of being a purchaser in good faith, comes to their attention, and  
34 remove the goods or services from their inventory when the result of the investigation provides

1 knowledge or a reasonable cause to know that the goods or services were acquired through  
2 organized retail crime, and maintain a record of all investigations for a minimum of three (3) years;  
3 or

4 (2) Maintain for three (3) years a record of the name, telephone number, e-mail address,  
5 legitimate physical address, any user identification, and company name of the seller of the good or  
6 service that it believes has possession of stolen retail items.

7 (b) Anyone who violates the provisions of subsection (a) of this section, shall be punished  
8 by a fine of one thousand, five hundred dollars (\$1,500).

9 **11-41.3-6. Forfeiture.**

10 (a) Any property used, or intended to be used in any manner or part, to commit organized  
11 retail crime or the facilitation of organized retail crime shall be subject to forfeiture to the state.

12 (b) Upon a finding that the property used or obtained is forfeitable, the court shall order  
13 that any forfeited article be returned to the rightful owner. If the true owner of stolen retail  
14 merchandise cannot be identified, the retail merchandise, and any proceeds from the sale or resale  
15 of that merchandise, shall be forfeited to the state.

16 (c) The court shall order a person who is found guilty of organized retail crime to make  
17 restitution to any retail merchant victim. The value of forfeited items shall not be used to reduce  
18 the restitution owed.

19 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CRIMINAL OFFENSES -- ORGANIZED RETAIL CRIME ACT OF 2022

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1           This act would establish the organized retail crime act which would further criminalize the  
2 concerted action of three (3) or more people that engage in organized theft from retail stores.  
3 Organized retail crime would be punishable by up to five (5) years imprisonment or a five thousand  
4 dollar (\$5,000) fine or both. Property stolen and/or any property used to conduct organized retail  
5 crime would be forfeitable to the state.

6           This act would take effect upon passage.

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