

1 ENGROSSED HOUSE
2 BILL NO. 1966

By: O'Donnell of the House

and

Newberry of the Senate

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7 An Act relating to organized retail theft; creating
8 the Organized Retail Crime Act; providing short
9 title; defining terms; making certain acts unlawful;
10 providing penalties; authorizing forfeiture of
11 merchandise under certain circumstances; providing
for restitution; authorizing collaboration between
retail merchants and law enforcement agencies for
certain purposes; providing for codification; and
providing an effective date.

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14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1743 of Title 21, unless there
17 is created a duplication in numbering, reads as follows:

18 Sections 2 through 5 of this act shall be known and may be cited
19 as the "Organized Retail Crime Act".

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1743.1 of Title 21, unless there
22 is created a duplication in numbering, reads as follows:

23 As used in this act:
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1 1. "Organized retail crime" means the theft of retail
2 merchandise from a retail merchant with the intent or purpose of
3 reselling, distributing, or otherwise reentering the retail
4 merchandise in commerce, including the transfer of the stolen retail
5 merchandise to another retail merchant or to any other person
6 personally, through the mail or through any electronic medium,
7 including the Internet, in exchange for anything of value;

8 2. "Person" means an individual, sole proprietorship,
9 partnership, cooperative, association, corporation, limited
10 liability company, personal representative, receiver, trustee,
11 assignee or other entity;

12 3. "Retail merchandise" means any new article, product,
13 commodity, item or component intended to be sold in retail commerce;
14 and

15 4. "Retail merchant" means any person that is in the business
16 of selling retail merchandise at retail.

17 SECTION 3. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1743.2 of Title 21, unless there
19 is created a duplication in numbering, reads as follows:

20 A. A person is guilty of organized retail crime when that
21 person, alone or in association with another person, does any of the
22 following:

23 1. Knowingly commits an organized retail crime;
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1 2. Organizes, supervises, finances, or otherwise manages or
2 assists another person in committing an organized retail crime;

3 3. Removes, destroys, deactivates or knowingly evades any
4 component of an antishoplifting or inventory control device to
5 prevent the activation of that device or to facilitate another
6 person in committing an organized retail crime;

7 4. Conspires with another person to commit an organized retail
8 crime;

9 5. Receives, purchases or possesses retail merchandise for sale
10 or resale, knowing or believing the retail merchandise to be stolen
11 from a retail merchant;

12 6. Uses any artifice, instrument, container, device, or other
13 article to facilitate the commission of an organized retail crime;

14 7. Knowingly causes a fire exit alarm to sound or otherwise
15 activate, or deactivates or prevents a fire exit alarm from
16 sounding, in the commission of an organized retail crime or to
17 facilitate the commission of an organized retail crime by another
18 person; or

19 8. Knowingly purchases a wireless telecommunication device
20 using fraudulent credit, knowingly procures a wireless
21 telecommunications service agreement with the intent to defraud
22 another person or to breach that agreement, or uses another person
23 to obtain a wireless telecommunications service agreement with the
24 intent to defraud another person or to breach that agreement.

1 B. Organized retail crime is a felony punishable by
2 imprisonment in the custody of the Department of Corrections for not
3 more than five (5) years, or a fine of Five Thousand Dollars
4 (\$5,000.00), or by both such fine and imprisonment.

5 C. If the true owner of stolen retail merchandise cannot be
6 identified, the retail merchandise and any proceeds from the sale or
7 resale of that merchandise are subject to forfeiture to the state.
8 The court shall order forfeiture of the retail merchandise in the
9 manner and upon terms and conditions as determined by the court to
10 be appropriate.

11 D. The court shall order a person who is found guilty of
12 organized retail crime to make restitution to any retail merchant
13 victim as provided in Section 991a of Title 22 of the Oklahoma
14 Statutes.

15 E. It is not a defense to a charge under this section that the
16 property was not stolen, embezzled or converted property at the time
17 of the violation if the property was explicitly represented to the
18 accused person as being stolen, embezzled or converted property.

19 SECTION 4. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1743.3 of Title 21, unless there
21 is created a duplication in numbering, reads as follows:

22 The provisions of this act shall not prohibit a person from
23 being charged with, convicted of, or sentenced for any violation of
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