

1                                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2   STATE OF OKLAHOMA

3   1st Session of the 55th Legislature (2015)

4   HOUSE BILL 1966

  By: O'Donnell

5  
6  
7   AS INTRODUCED

8                   An Act relating to organized retail theft; creating  
9                   the Organized Retail Crime Act; providing short  
10                  title; defining terms; making certain acts unlawful;  
11                  providing penalties; authorizing forfeiture of  
12                  merchandise under certain circumstances; providing  
13                  for restitution; creating the Organized Retail Crime  
14                  Advisory Board; establishing membership of Board;  
15                  providing method of electing chair and vice-chair;  
16                  providing for meetings; providing for reimbursement  
17                  of travel expenses; stating duties of the Board;  
18                  requiring submission of certain report; requiring  
19                  adherence to Oklahoma Open Meeting Act and Oklahoma  
20                  Open Records Act; providing for codification; and  
21                  providing an effective date.

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

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

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

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

4 As used in this act:

5 1. "Board" means the Organized Retail Crime Advisory Board  
6 created pursuant to Section 5 of this act;

7 2. "Organized retail crime" means the theft of retail  
8 merchandise from a retail merchant with the intent or purpose of  
9 reselling, distributing, or otherwise reentering the retail  
10 merchandise in commerce, including the transfer of the stolen retail  
11 merchandise to another retail merchant or to any other person  
12 personally, through the mail or through any electronic medium,  
13 including the Internet, in exchange for anything of value;

14 3. "Person" means an individual, sole proprietorship,  
15 partnership, cooperative, association, corporation, limited  
16 liability company, personal representative, receiver, trustee,  
17 assignee or other entity;

18 4. "Retail merchandise" means any new article, product,  
19 commodity, item or component intended to be sold in retail commerce;  
20 and

21 5. "Retail merchant" means any person that is in the business  
22 of selling retail merchandise at retail.

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

4 A. A person is guilty of organized retail crime when that  
5 person, alone or in association with another person, does any of the  
6 following:

7 1. Knowingly commits an organized retail crime;

8 2. Organizes, supervises, finances, or otherwise manages or  
9 assists another person in committing an organized retail crime;

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

14 4. Conspires with another person to commit an organized retail  
15 crime;

16 5. Receives, purchases or possesses retail merchandise for sale  
17 or resale, knowing or believing the retail merchandise to be stolen  
18 from a retail merchant;

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

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

1 facilitate the commission of an organized retail crime by another  
2 person; or

3 8. Knowingly purchases a wireless telecommunication device  
4 using fraudulent credit, knowingly procures a wireless  
5 telecommunications service agreement with the intent to defraud  
6 another person or to breach that agreement, or uses another person  
7 to obtain a wireless telecommunications service agreement with the  
8 intent to defraud another person or to breach that agreement.

9 B. Organized retail crime is a felony punishable by  
10 imprisonment in the custody of the Department of Corrections for not  
11 more than five (5) years, or a fine of Five Thousand Dollars  
12 (\$5,000.00), or by both such fine and imprisonment.

13 C. If the true owner of stolen retail merchandise cannot be  
14 identified, the retail merchandise and any proceeds from the sale or  
15 resale of that merchandise are subject to forfeiture to the state.  
16 The court shall order forfeiture of the retail merchandise in the  
17 manner and upon terms and conditions as determined by the court to  
18 be appropriate.

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

23 E. It is not a defense to a charge under this section that the  
24 property was not stolen, embezzled or converted property at the time

1 of the violation if the property was explicitly represented to the  
2 accused person as being stolen, embezzled or converted property.

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

6 This provisions of this act shall not prohibit a person from  
7 being charged with, convicted of, or sentenced for any violation of  
8 law arising out of the same criminal transaction that violates this  
9 act.

10 SECTION 5. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 1743.4 of Title 21, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. There is hereby created within the Oklahoma State Bureau of  
14 Investigation an Organized Retail Crime Advisory Board. The  
15 Organized Retail Crime Advisory Board shall be composed of the  
16 following members:

17 1. Two of the members shall be:

- 18 a. the Attorney General, or designee; and
- 19 b. the Director of the Oklahoma State Bureau of  
20 Investigation, or designee; and

21 2. Five of the members shall be:

- 22 a. one member who is a district attorney or an assistant  
23 district attorney selected from a list of three names  
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1 submitted by the District Attorneys Council, to be  
2 appointed by the Governor;

3 b. one member who is a chief of police of a municipality  
4 selected from a list of three names submitted by the  
5 Oklahoma Association of Police Chiefs, to be appointed  
6 by the Governor;

7 c. one member who is a sheriff of a county selected from  
8 a list of three names submitted by the Oklahoma  
9 Sheriffs' and Peace Officers Association, to be  
10 appointed by the Governor;

11 d. one member selected from a list of three names  
12 submitted by the Oklahoma Retail Federation, to be  
13 appointed by the Governor; and

14 e. one member who is a member of the general public, to  
15 be appointed by the Governor.

16 B. All members of the Board shall be appointed for a term of  
17 four (4) years. All terms shall expire on July 1 of the year in  
18 which the term expires. Thereafter, an appointment shall be made by  
19 the Governor within ninety (90) days after a vacancy has occurred  
20 due to resignation, death or any cause resulting in an unexpired  
21 term. A member may be reappointed to succeed himself or herself for  
22 one additional term.

1 C. Any member of the Board may be removed from office in the  
2 manner provided by law for the removal of officers not subject to  
3 impeachment.

4 D. 1. The Board shall hold meetings as necessary at a place  
5 and time to be fixed by the Board. The Board shall elect, at its  
6 first meeting, one of its members to serve as chair and another of  
7 its members to serve as vice-chair. At the first meeting in each  
8 calendar year thereafter, the chair and vice-chair for the ensuing  
9 year shall be elected. Special meetings may be called by the chair  
10 or by five members of the Board by delivery of written notice to  
11 each member of the Board. A majority of members serving on the  
12 Board shall constitute a quorum of the Board.

13 2. Members of the Board shall receive necessary travel expenses  
14 according to the provisions of the State Travel Reimbursement Act  
15 but shall receive no other compensation.

16 E. The duties of the Board shall be to develop a database of  
17 organized retail crimes, to compile annual statistics on organized  
18 retail crime, to recommend actions to be taken by law enforcement to  
19 further combat organized retail crime, and to submit an annual  
20 report to the Governor on the effectiveness of this act in reducing  
21 organized retail crime.

22 F. The business performed by the Board shall be conducted at a  
23 public meeting of the Board held in compliance with the Oklahoma  
24 Open Meeting Act.

1 G. A document prepared, owned, used, in the possession of, or  
2 retained by the Board in the performance of an official function  
3 shall be made available to the public in compliance with the  
4 Oklahoma Open Records Act.

5 SECTION 6. This act shall become effective November 1, 2015.  
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7 COMMITTEE REPORT BY: COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS,  
8 dated 02/25/2015 - DO PASS.  
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