



House of Representatives

General Assembly

File No. 618

February Session, 2010

Substitute House Bill No. 5223

House of Representatives, April 22, 2010

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING ORGANIZED RETAIL THEFT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2010*) (a) As used in this
2 section:

3 (1) "Retail property" means any new article, product, commodity,
4 item or component intended to be sold in retail commerce;

5 (2) "Value" means the retail value of an item as advertised by the
6 affected retail establishment, including applicable taxes; and

7 (3) "Retail property fence" means a person or business that buys
8 retail property knowing that the property is stolen.

9 (b) Any person who, for financial gain and in conjunction with one
10 or more other persons, commits larceny by shoplifting, as defined in
11 section 53a-119 of the general statutes, of retail property having an
12 aggregate value exceeding two thousand dollars and (1) wrongfully

13 takes such property during a period of one hundred eighty days, or (2)
14 sells, delivers or otherwise transfers such property to a retail property
15 fence, shall have committed the offense of organized retail theft.

16 (c) Any person who receives, possesses, conceals, stores, barter,
17 sells or disposes of any retail property acquired in violation of
18 subsection (b) of this section, with the intent to distribute the proceeds
19 or otherwise promote, manage, carry on or facilitate a violation of said
20 subsection, shall have committed the offense of accessory to organized
21 retail theft.

22 (d) It shall not be a defense to a charge of accessory to organized
23 retail theft in violation of subsection (c) of this section that the retail
24 property was obtained by means other than through a violation of said
25 subsection if the property was explicitly represented to the person
26 charged under said subsection (c) as being obtained through the
27 commission of organized retail theft.

28 (e) Any person who violates subsection (b) or (c) of this section shall
29 be guilty of a class D felony, except that, if such person derives a
30 financial benefit of ten thousand dollars or more as a result of such
31 violation, such person shall be guilty of a class C felony.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2010	New section

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Judicial Department	GF - Revenue Gain	Potential Minimal	Potential Minimal
Judicial Dpt (Probation); Correction, Dept.	GF - Cost	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill establishes new crimes of “organized retail theft” and “accessory to organized retail theft”. To the extent that these changes increase the likelihood that offenders would be prosecuted or receive harsher penalties than currently provided for under the larceny statutes, a potential revenue gain from criminal fines and potential cost for incarceration and/or probation supervision in the community would result.

As it is anticipated that relatively few fines would be imposed on an annual basis, any revenue gain under the bill is expected to be minimal. On average, it costs the state \$3,736 to supervise an offender on probation in the community as compared to \$47,425 to incarcerate the offender.

The Out Years

The annualized ongoing revenue gain identified above would remain constant into the future since fine amounts are set by statute; the annualized ongoing potential cost of incarceration and/or probation indicated above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5223*****AN ACT CONCERNING ORGANIZED RETAIL THEFT.*****SUMMARY:**

This bill establishes two new crimes, organized retail theft and accessory to organized retail theft. A person commits organized retail theft when he or she, for financial gain, works with at least other one person to shoplift retail property that has an aggregate value of more than \$2,000 and (1) does it during a 180-day period or (2) sells, delivers, or otherwise transfers it to a retail property fence, which is a person or business that buys retail property knowing that the property is stolen. Retail property is any new article, product, commodity, item or component intended to be sold in retail commerce.

A person commits accessory to organized theft if he or she receives, possesses, conceals, stores, barter, sells, or otherwise disposes of the stolen property intending to (1) distribute the proceeds or (2) promote, manage, carry on, or facilitate a violation of organized retail theft. A claim that the property was not stolen is not a defense if the property was explicitly represented as being obtained through the commission of organized retail theft.

The penalty is the same for violating both crimes. Violators are guilty of a class C felony (punishable by one to 10 years in prison, a fine of up to \$10,000, or both) if the financial benefit is \$10,000 or more and a class D felony (punishable by up to five years in prison, a fine of up to \$5,000, or both) if the benefit is less than \$10,000.

EFFECTIVE DATE: October 1, 2010

BACKGROUND***Shoplifting***

By law, shoplifting is a type of larceny, which a person commits by intentionally taking any goods, wares, or merchandise offered or exposed for sale by a mercantile establishment without paying for it. The penalty for shoplifting depends on the value of the property taken. Second degree larceny, a class C felony, is the taking of property or services over \$10,000. Third degree larceny, a class D felony, is the taking of property or services over \$2,000.

Legislative History

On April 5, the House referred the bill (File 101) to the Judiciary Committee, which favorably reported a substitute with changes to the elements of organized retail theft and accessory to organized theft.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute
Yea 18 Nay 0 (03/09/2010)

Judiciary Committee

Joint Favorable Substitute
Yea 40 Nay 0 (04/12/2010)