

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1720 Session of 2009

INTRODUCED BY CALTAGIRONE, MARSICO, BAKER, BRENNAN, CARROLL, FAIRCHILD, FARRY, FLECK, GRELL, HALUSKA, HARHAI, HICKERNELL, JOSEPHS, KAUFFMAN, M. KELLER, KORTZ, KULA, MANN, MILLARD, MILLER, MILNE, MOUL, O'NEILL, PALLONE, PHILLIPS, PICKETT, READSHAW, SCAVELLO, SIPTROTH, SWANGER, TRUE, VEREB, SOLOBAY, VULAKOVICH, D. COSTA, DENLINGER, GEIST, STABACK, HESS, STEVENSON, GINGRICH, PYLE, CREIGHTON, PRESTON, HARKINS, MARSHALL, MENSCH AND HARHART, JUNE 16, 2009

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED, MARCH 16, 2010

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, ~~prohibiting~~ IN THEFT AND RELATED
3 OFFENSES, PROVIDING FOR THE OFFENSE OF organized retail
4 theft. ←

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 18 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 3929.3 Organized retail theft.

10 (a) Offense defined.--A person commits organized retail
11 theft if he: ←

12 (1) takes possession of, carries away, transfers or
13 causes to be carried away or transferred any quantity of
14 merchandise displayed, held, stored or offered for sale by
15 any store or other retail mercantile establishment with the

~~intention of depriving the merchant of the possession, use or benefit of such merchandise without paying the full retail value thereof and for the purpose of selling the merchandise to a person in the business of buying or selling stolen property;~~

~~(2) is employed by or associates with any organized retail theft enterprise, or conducts or participates, directly or indirectly, in the activities of such enterprise;~~

~~(3) organizes, coordinates, controls, supervises, finances or manages the activities of an organized retail theft enterprise;~~

~~(4) acquires or maintains, directly or indirectly, any interest in any organized retail theft enterprise; or~~

~~(5) conspires to violate, or solicits another person to violate, any of the provisions of paragraph (1), (2), (3) or (4).~~

~~(b) Grading. Organized retail theft constitutes a:~~

~~(1) Felony of the third degree when the offense is a violation of subsection (a) (1), (2), (4) or (5).~~

~~(2) Felony of the second degree when the offense is a violation of subsection (a) (3).~~

~~(c) Definition. For the purposes of this section, the term "organized retail theft enterprise" shall mean a partnership, corporation, association or other legal entity, or a union or group of two or more individuals associated in fact although not a legal entity, including legitimate as well as illegitimate entities, whose association is for the purpose of engaging in a violation of the provisions of section 3925 (relating to receiving stolen property) or 3929 (relating to retail theft).~~

~~THE PERSON ORGANIZES, COORDINATES, CONTROLS, SUPERVISES,~~



1 FINANCES OR MANAGES ANY OF THE ACTIVITIES OF AN ORGANIZED RETAIL
2 THEFT ENTERPRISE.

3 (B) GRADING.--

4 (1) IF THE RETAIL VALUE OF THE STOLEN MERCHANDISE IN THE
5 POSSESSION OF OR UNDER THE CONTROL OF THE ORGANIZED RETAIL
6 THEFT ENTERPRISE IS AT LEAST \$5,000 BUT NOT MORE THAN
7 \$19,999, THE OFFENSE IS A FELONY OF THE THIRD DEGREE.

8 (2) IF THE RETAIL VALUE OF THE STOLEN MERCHANDISE IN THE
9 POSSESSION OF OR UNDER THE CONTROL OF THE ORGANIZED RETAIL
10 THEFT ENTERPRISE IS AT LEAST \$20,000, THE OFFENSE IS A FELONY
11 OF THE SECOND DEGREE.

12 (C) DEFINITIONS.--THE FOLLOWING WORDS AND PHRASES WHEN USED
13 IN THIS SECTION SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
14 SUBSECTION:

15 "MERCHANDISE." ANY GOODS, CHATTELS, FOODSTUFFS OR WARES OF
16 ANY TYPE AND DESCRIPTION, REGARDLESS OF THE VALUE THEREOF.

17 "MERCHANT." AN OWNER OR OPERATOR OF A RETAIL MERCANTILE
18 ESTABLISHMENT OR AN AGENT, EMPLOYEE, LESSEE, CONSIGNEE, OFFICER,
19 DIRECTOR, FRANCHISE OR INDEPENDENT CONTRACTOR OF SUCH OWNER OR
20 OPERATOR.

21 "ORGANIZED RETAIL THEFT ENTERPRISE." A CORPORATION,
22 PARTNERSHIP OR ANY OTHER TYPE OF ASSOCIATION, WHETHER OR NOT
23 LEGALLY FORMED, OPERATED FOR THE PURPOSE OF ENGAGING IN
24 VIOLATIONS OF THE PROVISIONS OF SECTION 3925 (RELATING TO
25 RECEIVING STOLEN PROPERTY) OR 3929 (RELATING TO RETAIL THEFT).

26 "RETAIL VALUE." A MERCHANT'S STATED OR ADVERTISED PRICE OF
27 MERCHANDISE. IF MERCHANDISE IS NOT TRACEABLE TO A SPECIFIC
28 MERCHANT, THE STATED OR ADVERTISED PRICE OF THE MERCHANDISE BY
29 MERCHANTS IN THE SAME GEOGRAPHICAL REGION.

30 Section 2. This act shall take effect in 60 days.