**South Carolina General Assembly**

125th Session, 2023-2024

**S. 563**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Turner, Alexander, Garrett, Loftis, Bennett, Adams, M. Johnson, Gustafson, Massey, Cromer, Peeler, Talley, Young, Kimbrell, Climer, Reichenbach and Grooms

Companion/Similar bill(s): 4187

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Introduced in the Senate on February 22, 2023

Currently residing in the Senate Committee on **Judiciary**

Summary: Organized Retail Crime

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/22/2023 Senate Introduced and read first time ([Senate Journal‑page 5](h:\sj\20230222.docx))

2/22/2023 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 5](h:\sj\20230222.docx))

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**VERSIONS OF THIS BILL**

[02/22/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/563_20230222.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 16‑13‑135, RELATING TO RETAIL THEFT and PENALTIES, SO AS TO DEFINE ORGANIZED RETAIL CRIME AND ORGANIZED RETAIL CRIME OF AN AGGRAVATED NATURE AND RELATED TERMS, TO CLASSIFY ORGANIZED RETAIL CRIME AS A FELONY OFFENSE, and TO DEFINE AGGRAVATING CIRCUMSTANCES AND INCREASED PENALTIES FOR ORGANIZED RETAIL CRIME OF AN AGGRAVATED NATURE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 16‑13‑135 of the S.C. Code is amended to read:

Section 16‑13‑135. (A) As used in this section:

(1) “Emergency exit” means an exit door erected and maintained to comply with the requirements of 29 C.F.R. § 1910.36 or 29 C.F.R. § 1910.37

(2) “Infant formula” means a food which purports to be or is represented for special dietary use solely as a food for infants by reason of its simulation of human milk or its suitability as a complete or partial substitute for human milk.

(3) “Merchandise credit” means a gift card, store credit, or other form of credit that carries monetary value and is accepted by the issuer in exchange for cash or retail property.

(4) “Organized Retail Crime” means a theft of retail property or merchandise credit from a retail establishment with the intent to sell, barter, exchange, or reenter such retail property or merchandise credit into commerce for monetary or other gain.

(5) “Retail property” means a new article, product, commodity, item, or component intended to be sold in retail commerce.

(2) (6) “Retail property fence” means a person or business that buys retail property knowing or believing that the retail property is stolen.

(3) (7) “Theft” means to take possession of, carry away, transfer, or cause to be carried away the retail property of another with the intent to steal the retail property.

(4) (8) “Value” means the retail value of an item as offered for sale to the public by the affected retail establishment and includes all applicable taxes.

(B)(1) It is unlawful for a person to:

(1)(a) commit theft of retail property or merchandise credit from a retail establishment, with a value exceeding two thousand dollars aggregated over a ninety‑day period, with the intent to sell the retail property or merchandise credit for monetary or other gain, and sell, barter, take, or cause the retail property to be placed in the control of a retail property fence or other person in exchange for consideration;

(2)(b) conspire with another person to commit theft of retail property or merchandise credit from a retail establishment, with a value exceeding two thousand dollars aggregated over a ninety‑day period, with the intent to:

(a)(i) sell, barter, or exchange the retail property or merchandise credit for monetary or other gain; or

(b)(ii) place the retail property or merchandise credit in the control of a retail property fence or other person in exchange for consideration.; or

(c) conspire with another person to illegally or fraudulently obtain confidential data or consumer personally identifiable information for the purpose of converting it into financial gain; or

(3)(d) receive, possess, or sell retail property that has been taken or stolen in violation of item (1) (a)or (2) (b) while knowing or having reasonable grounds to believe the property is stolen. A person is guilty of this offense whether or not anyone is convicted of the property theft.

(C) Acts committed in different counties that have been aggregated in one count may be indicted and prosecuted in any one of the counties in which the acts occurred. In a prosecution for a violation of this section, the State is not required to establish and it is not a defense that some of the acts constituting the crime did not occur within one city, county, or local jurisdiction.

(D) Property, funds, and interest a person has acquired or maintained in violation of this section are subject to forfeiture pursuant to the procedures for forfeiture as provided in Sections 44‑53‑530 and 16‑13‑175.

(E) Organized retail crime is a lesser‑included offense of organized retail crime of an aggravated nature as defined section (F)(1).

(E)(F) A person who violates this section commits the offense of organized retail crime. A person who violates this section is guilty of a felony, and, upon conviction:

(1)For a first offense:

(a) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than three years, or both; if the value of the retail property or merchandise credit is more than two thousand dollars but less than ten thousand dollars and;

(b) must be fined not more than ten thousand dollars or imprisoned for not more than five years, or both, if the value of the retail property or merchandise credit is more than twenty thousand dollars but less than fifty thousand dollars;

(c) must be fined not more than twenty thousand dollars or imprisoned for not more than ten years, or both, if the value of the retail property or merchandise credit is more than fifty thousand dollars but less than one hundred thousand dollars;

(4) must be fined not more than fifty thousand dollars or imprisoned for not more than twenty years, or both, if the value of the retail property or merchandise credit is more than one hundred thousand dollars;

(2) for a second or subsequent offense, is guilty of a felony and, upon conviction, regardless of the value of the retail property or merchandise credit in any offense, must be fined not more than tenfifty thousand dollars or imprisoned for not more than twenty years, or both.

(F)(1) A person who violates this section commits the offense of organized retail crime of an aggravated nature if during the commission of organized retail crime the person either:

(a) damages, destroys, or defaces real or personal property in excess of one thousand dollars;

(b) assaults an employee or independent contractor of a retail establishment;

(c) assaults a law enforcement officer;

(d) removes, destroys, or deactivates a component of an antishoplifting or inventory control device with a tool or device intended to defeat the antishoplifting or inventory control device;

(e) commits theft of infant formula valued in excess of one hundred dollars;

(f) uses an emergency exit to remove retail property if the value of the retail property is more than two hundred dollars; or

(g) exchanges property for cash, a gift card, a merchandise credit, or some other item of value, knowing or having reasonable grounds to believe the property exchanged is stolen.

(2) Aggravated organized retail crime is a felony punishable by a fine of not more than fifty thousand dollars or imprisonment for not more than twenty years, or both, regardless of the value of the real property.

(G) For purposes of this section, multiple offenses occurring within a ninety‑day period may be aggregated into a single count with the aggregated value used to determine the total value of the property or merchandise credit.

SECTION 2. This act takes effect upon approval by the Governor.

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