

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph R. Driscoll, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to improve criminal laws relative to organized retail theft.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Joseph R. Driscoll, Jr.	5th Norfolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO IMPROVE CRIMINAL LAWS RELATIVE TO ORGANIZED RETAIL THEFT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 AN ACT TO IMPROVE CRIMINAL LAWS RELATIVE TO ORGANIZED RETAIL THEFT

2

3 SECTION 1. Section 1 of chapter 101 of the General Laws, as appearing in the 2002 Official Edition, is
4 hereby amended by inserting the following words after the definition of "Deputy director":- "Second hand
5 dealer", any person, either principal or agent who engages in the business in the commonwealth of selling
6 used goods, used wares or used merchandise.

7

8 SECTION 2. Said section 1 of chapter 101 of the General Laws, as so appearing, is hereby amended by
9 inserting after the word "place," in line 8, the following words: - , including selling goods, wares or
10 merchandise at an unused property market or flea market so-called.

11

12 SECTION 3. Said section 1 of chapter 101, as so appearing, is hereby further amended by inserting after
13 the word "months," in line 12, the following words: - Provided, however, that a flea market, so called,
14 whether held inside such tent, booth, building or other structure or in the open shall be considered a
15 temporary or transient business.

16

17 SECTION 4. Said section 1 of chapter 101, as so appearing, is hereby further amended by inserting after
18 the last line the following words: -

19

20 “Unused Property Market” any event at which two (2) or more persons offer personal property for sale or
21 exchange, at which a fee is charged for sale or exchange of personal property, or at which a fee is charged
22 to prospective buyers for admission to the area at which personal property is offered or displayed for sale
23 or exchange; or regardless of the number of persons offering or displaying personal property or the
24 absence of fees at which personal property is offered or displayed for sale or exchange if the event is held
25 more than six (6) times in any twelve (12) month period.

26

27 The term Unused Property Market is interchangeable with and applicable to “Swap Meet”, “Indoor Swap
28 Meet”, “Flea Market”, or other similar terms regardless of whether these events are held inside a building
29 or outside in the open. The primary characteristic is that these activities involve a series of sales
30 sufficient in number, scope, and character to constitute a regular course of business.

31

32 The term Unused Property Market shall not mean and shall not apply to an event which is organized for
33 the exclusive benefit of any community chest, fund, foundation, association, or corporation organized and
34 operated for religious, educational, or charitable purposes, provided that no part of any admission fee or
35 parking fee charged vendors or prospective purchasers or the gross receipts or net earnings from the sale
36 or exchange of personal property, whether in the form of a percentage of the receipts or earnings, as
37 salary, or otherwise, inures to the benefit of any private shareholder or person participating in the
38 organization or conduct of the event; or any event at which all of the personal property offered for sale
39 or displayed is new, and all persons selling, exchanging or offering or displaying personal property for
40 sale or exchange, are manufacturers or authorized representatives of manufacturers or distributors.

41

42 “Unused Property Merchant” any person, other than a vendor or merchant with an established retail
43 store in the county, who transports an inventory of goods to a building, vacant lot or other Unused
44 Property Market location and who, at that location, displays the goods for sale and sells the goods at
45 retail or offers the goods for sale at retail, except a person who offers five or less items of the same new
46 and unused merchandise for sale or exchange at an Unused Property Market.

47

48 “New and Unused Property” tangible personal property that was acquired by the Unused Property
49 Merchant directly from the producer, manufacturer, wholesaler or retailer in the ordinary course of
50 business which has never been used since its production or manufacturing or which is in its original and
51 unopened package or container, if such personal property was so packaged when originally produced or
52 manufactured. New and Unused Property does not include property the sale of which is already
53 considered "used" under existing federal or state law or regulation.

54

55 “Baby Food” or “Infant Formula” any food manufactured, packaged and labeled specifically for sale for
56 consumption by a child under the age of 2.

57

58 “Nonprescription Drug” (may also be referred to as “Over the Counter Drug”) any non-narcotic medicine
59 or drug that may be sold without a prescription and is prepackaged for use by the consumer, prepared by
60 the manufacturer or producer for use by the consumer, and should be properly labeled and unadulterated
61 in accordance with the requirements of the state food and drug laws and the federal “Food, Drug and
62 Cosmetic Act”. The term “Nonprescription Drug” shall not include herbal products, dietary supplements,
63 botanical extracts or vitamins.

64

65 “Medical Device” any instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent,
66 tool, or other similar or related article, including any component part or accessory, required under federal
67 law to bear the label “Caution: Federal law requires dispensing by or on the order of a physician”; or
68 which is defined by federal law as a medical device and which is intended for use in the diagnosis of
69 disease or other conditions or in the cure, mitigation, treatment or prevention of disease in man or animals
70 or is intended to affect the structure or any function of the body of man or animals, which does not
71 achieve any of its principal intended purposes through chemical action within or on the body of man or
72 animals and which is not dependent upon being metabolized for achievement of any of its principal
73 intended purposes.

74

75 SECTION 5. Said section 18A of chapter 101, as so appearing, is hereby replaced by the following words:
76 -

77

78

79 No Unused Property Merchant shall offer at an Unused Property Market for sale or knowingly permit the
80 sale of Baby Food, Infant Formula, cosmetics or personal care products, or any Nonprescription Drug or
81 Medical Device as defined in this Chapter or in section one of Chapter ninety-four. This section shall not
82 apply to a person who keeps available for public inspection a written authorization identifying that person
83 as an authorized representative of the manufacturer or distributor of such product, as long as the
84 authorization is not false, fraudulent, or fraudulently obtained.

85 Any person violating the provisions of this section shall be punished by a fine of not more than
86 one hundred dollars for each item so offered for sale or sold.

87 SECTION 6. Said chapter 101, as so appearing, is hereby amended by inserting the following words after
88 the last line in section 34: -

89

90 Section 35. Every Unused Property Merchant shall maintain receipts for the purchase of New and
91 Unused Property, as defined above. Receipts shall contain all of the following information:

92

- 93 1. date of the transaction;
- 94 2. name and address of the person, corporation, or entity from whom the New and Unused Property was
- 95 acquired;
- 96 3. an identification and description of the New and Unused Property acquired;
- 97 4. the price paid for such New and Unused Property;
- 98

99 It is a violation of this Act for an Unused Property Merchant required to maintain receipts under the
100 provisions contained herein to knowingly:

101

- 102 1. falsely create, alter, obliterate or destroy such receipts;
- 103 2. refuse or fail upon request to make such receipts available for inspection within a period of time
- 104 which is reasonable under the individual circumstances surrounding such request; provided, however,
- 105 nothing contained within the provisions of this section shall be construed to require the Unused
- 106 Property Merchant to possess such receipt on or about his or her person without reasonable notice; or
- 107 3. fail to maintain the receipts required by this section for at an appropriate time.
- 108

109 The provisions of this Act shall not apply to:

110

- 111 1. the sale of any item regulated by federal, state, or local law, statute, act of legislature, regulation, or
- 112 ordinance, and sold in compliance with those provisions.
- 113 2. the sale of a motor vehicle or trailer that is required to be registered or is subject to the certificate of
- 114 title laws of this state;
- 115 3. the sale of wood for fuel, ice, or livestock;
- 116 4. business conducted in any industry or association trade show;
- 117 5. property, although never used, whose style, packaging or material, clearly indicates that such property
- 118 was not produced or manufactured within recent times;
- 119 6. anyone who sells by sample, catalog or brochure for future delivery.
- 120 7. the sale of arts or crafts or other merchandise by a person who produces such arts or crafts or
- 121 merchandise or by a person or persons acting on their behalf.
- 122 8. persons who make sales presentations pursuant to a prior, individualized invitation issued to the
- 123 consumer by the owner or legal occupant of the premises.
- 124

125 A violation of this Act shall be punished for a first offense by imprisonment in the house of correction for
126 not more than two and one half years or by a fine of not more than five thousand dollars or by both such
127 fine and imprisonment, and for a second or subsequent offense by imprisonment in the state prison for not
128 more than five years, or by a fine of not more than twenty-five thousand dollars or by both such fine and
129 imprisonment.

130

131 This Act shall apply to all New and Unused Property purchased or acquired on or after January 1, 2010.

132

133 SECTION 7. Section 3 of said chapter 101, as appearing in the 2002 Official Edition, is hereby amended
134 in line 1 by inserting after the word “vendor” the following:-unused property merchant or second hand
135 dealer so called,

136

137 SECTION 8. Section 3 of said chapter 101, as so appearing, is hereby amended by striking the second
138 sentence and inserting in place thereof the following:-

139

140 Thereupon, upon the payment of a fee, as determined annually by the commissioner of administration
141 under the provision of section three B of chapter seven, the deputy director shall issue to him a state
142 license authorizing him to do business as a transient vendor, unused property merchant or second hand
143 dealer, subject to such local rules and regulations as may be made in a city by the mayor and city council
144 and in a town by the selectmen. Such fee shall be a dedicated fee which will fund, in part, the record
145 keeping system within the department of public safety as established by section 3A of this chapter.

146

147 SECTION 9. Said chapter 101 is hereby amended by inserting after section 3, as so appearing, the
148 following section: -

149

150 Section 3A. A transient vendor, unused property merchant or second hand dealer selling merchandise at
151 an unused property market or a flea market, so called, shall be registered with the department of revenue
152 and shall have a sales tax identification number issued by said department. Such vendor shall keep a
153 record of all purchases and sales of goods, wares and merchandise, including the source from which such
154 merchandise was obtained and shall issue sales receipts for all such sales and such receipts shall contain
155 the name, license number and sales tax identification number of such vendor. The true name, address,
156 license number and sales tax identification number shall be posted by such vendor at the place where such
157 vendor is conducting business. Whoever leases or rents space to transient vendors, unused property
158 merchant or second hand dealer at an unused property market or flea market so called, shall maintain a
159 record of the date of such lease or rental, and the name, license number and sales tax identification
160 numbers of each such vendor. Such record shall be a public record and may be viewed or copied upon
161 request during regular business hours. The Department of Public Safety shall implement a record keeping
162 system for transient vendors and second hand dealers of goods, wares, merchandise acquired and sold at
163 the registered place of business.

164

165 SECTION 10. Said Chapter 266 of the General Laws, as so appearing is hereby amended by inserting the
166 following new section:-

167

168 Section 30B. Unlawful Use of Theft Detection Shielding or Deactivation Devices

169

170 A person is guilty of unlawful distribution of a theft detection shielding device when he knowingly
171 manufactures, sells, offers for sale or distributes in any way laminated or a coated bag or other devise
172 intended to shield merchandise from detection by an electronic or magnetic theft detector.

173

174 A person is guilty of unlawful possession of a theft detection shielding device when he knowingly
175 possesses any laminated or coated bags or devices intended to shield merchandise from detection by an
176 electronic or magnetic theft detector, with the intent to commit (or aid or abet) theft.

177

178 A person is guilty of unlawful possession of a theft detection device deactivator or remover when he
179 knowingly possesses any tool or device designed or adapted to allow, or is capable of allowing, the
180 deactivation, or removal from any merchandise, of any theft detection device, with the intent to use such
181 tool or device to deactivate any theft detection device on, or to remove any theft detection device from,
182 any merchandise without the permission of the merchant or person owning or lawfully holding said
183 merchandise.

184

185 A person is guilty of unlawful distribution of a theft detection device deactivator or remover when he
186 knowingly manufactures, sells, offers for sale or distributes in any way tool or device designed or
187 adapted to allow, or capable of allowing, the deactivation, or removal from any merchandise, of any theft
188 detection device without the permission of the merchant or person owning or lawfully holding said
189 merchandise.

190

191 A person is guilty of unlawful deactivation or removal of a theft detection device when he intentionally
192 deactivates with intent to steal in a retail establishment a theft detection device on, or removes a theft
193 detection device from, merchandise prior to purchase.

194 A violation of this Act shall be punished for a first offense by imprisonment in the house of correction for
195 not more than two and one half years or by a fine of not more than one thousand dollars or by both such
196 fine and imprisonment, and for a second or subsequent offense by imprisonment in the state prison for not
197 more than five years, or by a fine of not more than twenty-five thousand dollars or by both such fine and
198 imprisonment.

199

200 The activation of an anti-shoplifting or inventory control device as a result of a person exiting the
201 establishment or a protected security device within the area within the establishment shall constitute
202 reasonable cause for the detention of the person so exiting by the owner or operator of the establishment
203 or by an agent or employee of the owner or operator, provided notice has been posted to advise the
204 patrons that the establishment utilizes anti-shoplifting or inventory control devices. Each such detention
205 shall be made only in a reasonable manner and only for a reasonable period of time sufficient for any
206 inquiry into the circumstances surrounding the activation of the device and/or for the recovery of goods.
207 Such taking into custody and detention by a law enforcement officer, security officer, merchant,
208 merchant's employee or agent, if done in compliance with all the requirements of the foregoing

209 subsection, shall not render such law enforcement officer, security officer, merchant, merchant's
210 employee or agent, criminally or civilly liable, including any liability for false arrest, false imprisonment,
211 unlawful detention, malicious prosecution, intentional infliction of emotional distress or defamation.

212 SECTION 11. Said Chapter 266 of the General Laws, as so appearing is hereby amended by inserting the
213 following new section:-

214

215 Section 30B. Theft Using Emergency Exit to Avoid Apprehension or Detection

216

217 A person commits theft by emergency exit if that person intentionally takes possession of, carries
218 away, transfer or causes to be transferred, any merchandise displayed, held, stored or offered by
219 sale by any store or other retail mercantile establishment with the intent of depriving the
220 merchant of the possession, use or benefit of such merchandise or converting the same to the use
221 of such person without paying to the merchant the value thereof and the person leaves a store by
222 use of a designated emergency exit.

223 A violation of this Act shall be punished for a first offense by a fine of not less than two hundred and fifty
224 dollars and not more than five hundred dollars, and for a second offense by imprisonment in the house of
225 correction for not more than two and one half years or a fine not to exceed two thousand dollars, or by
226 both fine and imprisonment and for subsequent offenses by imprisonment in the state prison for not more
227 than five years, or by a fine of not more than five thousand dollars or by both such fine and imprisonment.

228

229 SECTION 12. Section 60 of chapter 266 of the general laws, as so appearing, is hereby amended by
230 striking out the entire section and inserting in place thereof the following new section: -

231

232 Whoever buys, receives or aids in the concealment of stolen or embezzled property, knowing it to have
233 been stolen or embezzled, or whoever with intent to defraud buys, receives or aids in the concealment of
234 property, knowing it to have been obtained from a person by a false pretense of carrying on business in
235 the ordinary course of trade or whoever obtains or exerts control over property in the custody of any law
236 enforcement agency, or any individual acting on behalf of a law enforcement agency, which is explicitly
237 represented to him by any law enforcement officer or any individual acting on behalf of a law
238 enforcement agency as being stolen and who intends to deprive its rightful owner permanently of the use
239 and enjoyment of said property shall, if the value of such property does not exceed two hundred and fifty
240 dollars, be punished for a first offense by imprisonment in a jail or house of correction for not more than
241 two and one half years, or by a fine of not more than one thousand dollars; or if for a second or
242 subsequent offense, or if the value of such property exceeds two hundred and fifty dollars, be punished by
243 imprisonment in a state prison for not more than five years, or by a fine of five thousand dollars, or by
244 both a fine and imprisonment. It shall not be a defense that the property was obtained by means other
245 than through the commission of a theft offense if the property was explicitly represented to the accused as
246 having been obtained through the commission of a theft offense.

247

248 SECTION 13. Said Chapter 266 of the General Laws, as so appearing is hereby amended by inserting the
249 following new section:-

250

251 Section 30E. Theft with intent to resell on an Online Marketplace, Facilitation and Forfeiture

252 “Online Marketplace” means any website used to facilitate the sale of goods and services,
253 including an Online auction site, operated by any buyer, seller or third party intermediary.

254 Theft with the intent to resell on an Online Marketplace. Any person who sells, attempts to sell,
255 or possesses with intent to resell any stolen or fraudulently obtained property on an Online
256 Marketplace with an aggregate value of less than two hundred and fifty dollars shall be guilty of
257 theft with intent to resell on an online marketplace. Any person who is guilty of theft with intent
258 to resell on an online marketplace shall be punished for a first offense by imprisonment in a jail
259 or house of correction for not more than two and one half years, or by a fine of not more than one
260 thousand dollars; or if for a second or subsequent offense be punished by imprisonment in a state
261 prison for not more than five years, or by a fine of five thousand dollars, or by both a fine and
262 imprisonment. Any person who sells, attempts to sell, or possesses with intent to resell any
263 stolen or fraudulently obtained property on an Online Marketplace with an aggregate value of
264 more than two hundred and fifty dollars shall be guilty of larceny with intent to resell on an
265 online marketplace. Any person who is guilty of larceny with intent to resell on an online
266 marketplace shall be punished for a first offense by imprisonment in a jail or house of correction
267 for not more than two and one half years, or by a fine of not more than two thousand dollars; or
268 if for a second or subsequent offense be punished by imprisonment in a state prison for not more
269 than ten years, or by a fine of twenty-five thousand dollars, or by both a fine and imprisonment.

270

271 Facilitation of the sale of stolen or fraudulently obtained goods on an Online Marketplace.

272 Any person who facilitates, aids or abets, by ownership or operation of an Online Marketplace,
273 the sale or attempted sale of any stolen or fraudulently obtained property on an Online
274 Marketplace with an aggregate value of less than two hundred and fifty dollars where he knew or
275 should have known that the property was stolen is guilty of facilitating the crime of theft with the
276 intent to resell on an online marketplace. for a first offense by imprisonment in a jail or house of
277 correction for not more than two and one half years, or by a fine of not more than one thousand
278 dollars; or if for a second or subsequent offense be punished by imprisonment in a state prison
279 for not more than five years, or by a fine of five thousand dollars, or by both a fine and
280 imprisonment. Any person who facilitates, aids or abets, by ownership or operation of an Online
281 Marketplace, the sale or attempted sale of any stolen or fraudulently obtained property on an
282 Online Marketplace with an aggregate value of more than two hundred and fifty dollars where he
283 knew or should have known that the property was stolen is guilty of facilitating the crime of
284 larceny with the intent to resell on an online marketplace. for a first offense by imprisonment in a
285 jail or house of correction for not more than two and one half years, or by a fine of not more than
286 two thousand dollars; or if for a second or subsequent offense be punished by imprisonment in a
287 state prison for not more than ten years, or by a fine of twenty-five thousand dollars, or by both a
288 fine and imprisonment.

289

290 The owner or operator of an Online Marketplace shall immediately terminate the sale of any
291 stolen or fraudulently obtained property upon receipt of information that provides a reasonable
292 basis to conclude that the sale or auction constitutes a violation of this section.

293
294 The owner or operator of an Online Marketplace shall not be deemed liable for a violation of this
295 section if he affirmatively demonstrates that he was presented with a written or electronic record
296 of the purchase of that property which specifically identifies the property being sold.

297 It is an affirmative defense that the owner or operator of an Online Marketplace has failed to
298 terminate the sale of stolen or fraudulently obtained property due to mistake or technical
299 problem.

300 Forfeiture - Any property used, or intended to be used, in any manner or part, to commit or
301 facilitate, aid or abet the commission [or attempted commission] of a violation of this section
302 shall be subject to forfeiture to the Commonwealth of Massachusetts and no property right shall
303 exist in such property.

304

305 SECTION 14. Said Chapter 266 of the General Laws, as so appearing is hereby amended by inserting the
306 following new section:-

307

308 Section 30F. Enhanced Theft – Receiving & Concealing

309

310 It is not a defense to a charge of receiving stolen property that the property was obtained by means other
311 than through the commission of a theft offense if the property was explicitly represented to the accused
312 person as being obtained through the commission of a theft offense.

313

314 SECTION 15. Said Chapter 266 of the General Laws, as so appearing is hereby amended by
315 inserting the following new section:-

316

317 Section 30G. Fraudulent/Bogus Receipts & Universal Product Codes

318

319 A person who, with intent to cheat or defraud a retailer, possesses, uses, utters, transfers, makes, alters,
320 counterfeits, or reproduces a retail sales or return receipt, price ticket or a Universal Product Code Label,
321 shall be punished for a first offense by imprisonment in the house of correction for not more than two and
322 one half years or by a fine of not more than five hundred dollars or by both such fine and imprisonment,
323 and for a second offense shall be punished by imprisonment in a house of corrections for not more than
324 two and one half years or by a fine of not more than two thousand dollars or by both fine and
325 imprisonment and subsequent offenses shall be punished by imprisonment in the state prison for not more
326 than five years, or by a fine of not more than ten thousand dollars or by both such fine and imprisonment.

327

328

329 A person who, with intent to cheat or defraud a retailer, possesses *fifteen (15) or more fraudulent retail
330 sales or return receipts, price tickets, Universal Product Code Labels or possesses the device which
331 purpose is to manufacture fraudulent retail sales receipts or Universal Product Code Labels, shall be
332 punished by imprisonment in the state prison for not more than five years, or by a fine of not more than
333 ten thousand dollars or by both such fine and imprisonment.

334

335 SECTION 16. Chapter 266 of the General Laws, as so appearing, is hereby amended by inserting the
336 following new section:-

337

338 Section 60C. Pattern of Criminal Offenses

339

340 Venue for criminal actions to enforce the provisions of this Section, including criminal actions with
341 respect to each of the alleged offenses included within a pattern of criminal offenses, as defined in this
342 Section, that have allegedly been committed, attempted or conspired to be committed by a person or
343 persons, shall be in any county in which at least one alleged criminal offense has occurred that constitutes
344 part of the alleged pattern of criminal offenses, it being the intent of this section that one district court
345 may have jurisdiction over all the conduct, persons and property which are part of, or are directly related
346 to, each and all of the alleged criminal offenses forming part of the alleged pattern of criminal offenses. It
347 is discretionary, not mandatory, to bring all criminal actions in one county when an alleged pattern of
348 criminal offenses involves two or more counties.

349

350

351 Any person who engages in a pattern of criminal offenses in two or more counties in this state or who
352 attempts or conspires with others to engage in a pattern of criminal offenses shall, upon conviction, be
353 punishable by imprisonment in the house of corrections for a term not exceeding two years, or
354 imprisonment in the house of corrections for a term not exceeding one year, or by a fine in an amount not
355 more than twenty-five thousand dollars, or by both such fine and imprisonment. Such punishment shall
356 be in addition to and imprisoned on and after any penalty imposed for any offense involved in the pattern
357 of criminal offenses.

358

359 For purposes of this act, "pattern of criminal offenses" means: Two or more criminal offenses are
360 committed that are part of the same plan, scheme, or adventure; or a sequence of two or more of the same
361 criminal offenses are committed and are not separated by an interval of more than thirty (30) days
362 between the first and second offense, the second and third, and so on; or two or more criminal offenses
363 are committed, each proceeding from or having as an antecedent element a single prior incident or pattern

364 of fraud, robbery, burglary, theft, identity theft, receipt of stolen property, false personating, false
365 pretenses, obtaining property by trick or deception, taking a credit or debit card without consent, or the
366 making, transferring or receiving of a false or fraudulent identification card.

367

368 Jurisdiction and venue for a pattern of criminal offenses occurring in multiple counties in this state shall
369 be determined as provided in this Section.

370

371

372 SECTION 17. Chapter 266 of the General Laws, as so appearing, is hereby amended by inserting the
373 following new section:-

374

375 Section 30H. Organized Retail Crime

376

377 Organized retail crime shall be defined as the stealing, embezzlement, or obtaining by fraud, false
378 pretenses, or other illegal means, of retail merchandise in quantities that would not normally be
379 purchased for personal use or consumption for the purpose of reselling or otherwise reentering such
380 retail merchandise in commerce; or the recruitment of persons to undertake, or the coordination,
381 organization, or facilitation of, such stealing, embezzlement, or obtaining by fraud, false pretenses, or
382 other illegal means.

383

384 An Organized Retail Crime Ring is defined as three or more persons who associate for the purpose of
385 engaging in the conduct of organized retail crime.

386

387 In this section, "retail merchandise" means one or more items of tangible personal property displayed,
388 held, stored, or offered for sale in a retail establishment or merchandise explicitly represented to the
389 person as being stolen retail merchandise.

390

391 A person who is guilty of organized retail crime shall be punished by imprisonment in a state prison for a
392 minimum term of not less than 1 year and a maximum term of not more than

393 10 years, if the aggregated value of the property or services involved in all crimes committed by the
394 individual or co-conspirators in an organized retail crime ring within the past one hundred and eighty
395 days is at least \$2,500 but less than \$10,000; or (2) by imprisonment in a state prison of not less than 2

396 years and a maximum term of not more than 15 years, if the aggregated value of the property or
397 services involved in all crimes committed by the individual or co-conspirators in an organized retail
398 crime ring within the past one hundred and eighty days is at least \$10,000 or more.

399

400 For purposes of this section, a series of thefts committed by the same person from one or more
401 mercantile establishments over a period of one hundred eighty days may be aggregated in one count
402 and the sum of the value of all the property shall be the value considered in determining the degree of
403 the organized retail theft involved.

404

405 Thefts committed by the same person in different counties that have been aggregated in one county
406 may be prosecuted in any county in which one of the thefts occurred.

407

408 Leader of Organized Retail Crime Enterprise.

409

410 A person is a leader of an organized retail theft enterprise if he conspires with others as an
411 organizer, supervisor, financier or manager, to engage for profit in a scheme or course of conduct to
412 effectuate the transfer or sale of shoplifted merchandise. A leader of organized retail crime may be
413 punished by a fine of not more than \$250,000 or five times the retail value of the merchandise
414 seized at the time of the arrest, whichever is greater and/or imprisonment in state prison for not
415 more than twenty years.

416