

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 234

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

AN ACT

RELATING TO CRIME; AMENDING THE ELEMENTS OF SHOPLIFTING;
CREATING THE CRIME OF AGGRAVATED SHOPLIFTING; CREATING THE
CRIME OF ORGANIZED RETAIL CRIME; IMPOSING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 30-16-20 NMSA 1978 (being Laws 1965,
Chapter 5, Section 2, as amended) is amended to read:

"30-16-20. SHOPLIFTING--AGGRAVATED SHOPLIFTING.--

A. Shoplifting consists of one or more of the
following acts:

(1) willfully taking possession of merchandise
with the intention of converting it without paying for it;

(2) willfully concealing merchandise with the
intention of converting it without paying for it;

(3) willfully altering a label, price tag or

1 marking upon merchandise with the intention of depriving the
2 [~~merchant~~] retailer of all or some part of the value of it; or

3 (4) willfully transferring merchandise from
4 the container in or on which it is displayed to another
5 container with the intention of depriving the [~~merchant~~]
6 retailer of all or some part of the value of it.

7 B. Whoever commits shoplifting when the value of
8 the merchandise shoplifted:

9 (1) is two hundred fifty dollars (\$250) or
10 less is guilty of a petty misdemeanor;

11 (2) is more than two hundred fifty dollars
12 (\$250) but not more than five hundred dollars (\$500) is guilty
13 of a misdemeanor;

14 (3) is more than five hundred dollars (\$500)
15 but not more than two thousand five hundred dollars (\$2,500) is
16 guilty of a fourth degree felony;

17 (4) is more than two thousand five hundred
18 dollars (\$2,500) but not more than twenty thousand dollars
19 (\$20,000) is guilty of a third degree felony; or

20 (5) is more than twenty thousand dollars
21 (\$20,000) is guilty of a second degree felony.

22 C. ~~[An individual charged with a violation of this~~
23 ~~section shall not be charged with a separate or additional~~
24 ~~offense arising out of the same transaction]~~ Charges under this
25 section shall be based on the aggregated retail market value of

1 merchandise shoplifted from a single retailer at a single
2 location in an amount specified in Subsection B of this
3 section. Conduct that may form the basis for a charge under
4 this section may be used or considered for an organized retail
5 crime offense pursuant to Section 2 of this 2023 act; provided
6 that an individual charged with both a violation of this
7 section and organized retail crime shall not be punished for
8 both offenses.

9 D. When an individual has engaged in shoplifting
10 more than once over a ninety-day period, whether committed at
11 one or more retailers, the prosecution may charge the
12 individual under this section based on either the aggregated
13 retail market value of merchandise shoplifted from a single
14 retailer at a single location or in a single charge based on
15 the aggregated retail market value of merchandise shoplifted.
16 Venue for prosecutions based on an aggregated retail market
17 value of merchandise stolen shall be proper in any county in
18 which merchandise was shoplifted.

19 E. Aggravated shoplifting consists of unlawfully
20 assaulting or striking at another with a deadly weapon while in
21 the act of shoplifting, while seeking to retain shoplifted
22 merchandise or while avoiding apprehension immediately
23 following shoplifting. Whoever commits aggravated shoplifting
24 is guilty of a third degree felony.

25 F. As used in this section:

.225644.4

1 (1) "aggregated retail market value" means the
2 total combined value of all merchandise involved at the price
3 at which the merchandise would ordinarily be sold by the
4 retailer with the legitimate sale or distribution of the item;
5 and

6 (2) "retailer" means a person or business that
7 sells or facilitates the sale of merchandise to the public for
8 use or consumption rather than for resale."

9 SECTION 2. A new section of Chapter 30, Article 16 NMSA
10 1978 is enacted to read:

11 "[NEW MATERIAL] ORGANIZED RETAIL CRIME--PENALTIES.--

12 A. A person who commits any of the following acts
13 is guilty of organized retail crime:

14 (1) acts in concert with one or more persons
15 to steal merchandise with an aggregated retail market value of
16 two thousand five hundred dollars (\$2,500) or more from one or
17 more retailers over the span of one year with the intent to
18 sell, exchange or return the merchandise for value;

19 (2) acts in concert with one or more persons
20 to receive, purchase or possess merchandise with an aggregated
21 retail market value of two thousand five hundred dollars
22 (\$2,500) or more over the span of one year, knowing or
23 believing it to have been stolen;

24 (3) acts as an agent of another individual or
25 group of individuals to steal merchandise with an aggregated

1 retail market value of two thousand five hundred dollars
2 (\$2,500) or more from one or more retailers over the span of
3 one year as part of an organized plan to commit theft; or

4 (4) recruits, coordinates, organizes,
5 supervises, directs, manages or finances another to undertake
6 any of the acts described in this section or any other statute
7 defining theft of merchandise.

8 B. Venue shall be proper in any county in which
9 merchandise is stolen.

10 C. Whoever commits organized retail crime is guilty
11 of a second degree felony.

12 D. As used in this section:

13 (1) "aggregated retail market value" means the
14 total combined value of all merchandise involved at the price
15 at which the merchandise would ordinarily be sold by the
16 retailer with the legitimate sale or distribution of the item;
17 and

18 (2) "retailer" means a person or business that
19 sells or facilitates the sale of merchandise to the public for
20 use or consumption rather than for resale."