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HOUSE BILL 318

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Al Park

AN ACT

RELATING TO CRIMINAL LAW; ENACTING THE ORGANIZED RETAIL THEFT
ACT; CREATING THE CRIMES OF ORGANIZED RETAIL THEFT AND
DANGEROUS RETAIL THEFT; PROVIDING PENALTIES.

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

SECTION 1. SHORT TITLE.--This act may be cited as the
"Organized Retail Theft Act".

SECTION 2. DEFINITIONS.--As used in the Organized Retail
Theft Act:

A. "market value" means the price at which property
would ordinarily be bought or sold at the time an alleged crime
occurred;

B. "retail establishment" means a business that
offers retail property for sale to the public;

C. "retail property" means a new article, product,

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1 commodity, item or component intended to be sold by a retail
2 establishment;

3 D. "retail property fence" means a person or
4 business that buys retail property knowing or believing that
5 the retail property is stolen; and

6 E. "underlying offense" means:

7 (1) larceny, as provided in Section 30-16-1
8 NMSA 1978;

9 (2) burglary, as provided in Subsection B of
10 Section 30-16-3 NMSA 1978;

11 (3) fraud, as provided in Section 30-16-6 NMSA
12 1978;

13 (4) embezzlement, as provided in Section
14 30-16-8 NMSA 1978;

15 (5) forgery, as provided in Section 30-16-10
16 NMSA 1978;

17 (6) shoplifting, as provided in Section
18 30-16-20 NMSA 1978; or

19 (7) credit card offenses, as provided in
20 Sections 30-16-25 through 30-16-33 NMSA 1978.

21 **SECTION 3. ORGANIZED RETAIL THEFT--PENALTIES--VENUE.--**

22 A. Organized retail theft consists of:

23 (1) committing an underlying offense in order
24 to obtain retail property from a retail establishment with the
25 intent to transfer the retail property to a retail property

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1 fence; or

2 (2) causing illegally obtained retail property
3 to be placed in the control of a retail property fence.

4 B. Whoever commits organized retail theft when the
5 market value of the retail property illegally obtained over a
6 ninety-day period is two hundred fifty dollars (\$250) or less
7 is guilty of a petty misdemeanor.

8 C. Whoever commits organized retail theft when the
9 market value of the retail property illegally obtained over a
10 ninety-day period is over two hundred fifty dollars (\$250) but
11 not more than five hundred dollars (\$500) is guilty of a
12 misdemeanor.

13 D. Whoever commits organized retail theft when the
14 market value of the retail property illegally obtained over a
15 ninety-day period is over five hundred dollars (\$500) but not
16 more than two thousand five hundred dollars (\$2,500) is guilty
17 of a fourth degree felony.

18 E. Whoever commits organized retail theft when the
19 market value of the retail property illegally obtained over a
20 ninety-day period is over two thousand five hundred dollars
21 (\$2,500) but not more than twenty thousand dollars (\$20,000) is
22 guilty of a third degree felony.

23 F. Whoever commits organized retail theft when the
24 market value of the retail property illegally obtained over a
25 ninety-day period is over twenty thousand dollars (\$20,000) is

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1 guilty of a second degree felony.

2 G. An offense under this section may be prosecuted
3 in any county in which an underlying offense could have been
4 prosecuted.

5 SECTION 4. DANGEROUS RETAIL THEFT.--

6 A. Dangerous retail theft consists of illegally
7 taking any property from a retail establishment by using an
8 emergency door to exit the premises of the retail
9 establishment.

10 B. Whoever commits dangerous retail theft is guilty
11 of a fourth degree felony.

12 C. Prosecution pursuant to this section shall not
13 prevent prosecution pursuant to any other provision of law when
14 the conduct also constitutes a violation of that other
15 provision.

16 D. As used in this section, "emergency door" means
17 a door that is clearly marked as an emergency or fire exit and
18 upon which has been placed a sign providing notice of the
19 felony offense and punishment provided in this section.

20 SECTION 5. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2011.