

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 223

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

INTRODUCED BY

Phil A. Griego

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,

underscoring material = new  
~~[bracketed material] = delete~~

underscoring material = new  
[bracketed material] = delete

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

.183177.1

underscoring material = new  
~~[bracketed material] = delete~~

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

.183177.1

underscored material = new  
[bracketed material] = delete

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.