

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 234

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

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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.--

.225644.4AIC March 15, 2023 (10:27am)

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

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

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

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

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

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

(4) is more than two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars

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(\$20,000) is guilty of a third degree felony; or

(5) is more than twenty thousand dollars

(\$20,000) is guilty of a second degree felony.

C. ~~[An individual charged with a violation of this section shall not be charged with a separate or additional offense arising out of the same transaction]~~ Charges under this section shall be based on the aggregated retail market value of merchandise shoplifted from a single retailer at a single location in an amount specified in Subsection B of this section. Conduct that may form the basis for a charge under this section may be used or considered for an organized retail crime offense pursuant to Section 2 of this 2023 act; provided that an individual charged with both a violation of this section and organized retail crime shall not be punished for both offenses.

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

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E. Aggravated shoplifting consists of unlawfully assaulting or striking at another with a deadly weapon
 SJC→~~while in the act of shoplifting, while seeking to retain shoplifted merchandise or while avoiding apprehension immediately following shoplifting~~←SJC SJC→immediately after an act of shoplifting in order to retain possession of stolen property or to effect an escape from the scene of an act of shoplifting←SJC . Whoever commits aggravated shoplifting is guilty of a third degree felony.

F. As used in this section:

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

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

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

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

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

(1) acts in concert with one or more persons to steal merchandise with an aggregated retail market value of

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two thousand five hundred dollars (\$2,500) or more from one or more retailers over the span of one year with the intent to sell, exchange or return the merchandise for value;

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

(3) acts as an agent of another individual or group of individuals to steal merchandise with an aggregated retail market value of two thousand five hundred dollars (\$2,500) or more from one or more retailers over the span of one year as part of an organized plan to commit theft; or

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

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

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

D. As used in this section:

(1) "aggregated retail market value" means the total combined value of all merchandise involved at the price at which the merchandise would ordinarily be sold by the

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retailer with the legitimate sale or distribution of the item;
and

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

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