

SENATE BILL 100

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4lr1135

(PRE-FILED)

By: **Senators Watson, Carozza, and West**

Requested: October 24, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 2, 2024

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Organized Retail Theft**

3 FOR the purpose of providing that multiple thefts committed by the same person in
4 multiple counties under one scheme or continuing course of conduct may be joined
5 and prosecuted in a certain county; prohibiting one or more persons from committing
6 a series of thefts from retail merchants over a certain period with an aggregate value
7 exceeding a certain amount; providing that a conviction under this Act merges with
8 a certain other conviction for sentencing purposes; requiring a court to make a
9 finding as to whether a certain crime is organized retail theft under certain
10 circumstances for a certain purpose; and generally relating to organized retail theft.

11 BY repealing and reenacting, without amendments,
12 Article – Criminal Law
13 Section 7–103(a)
14 Annotated Code of Maryland
15 (2021 Replacement Volume and 2023 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Criminal Law
18 Section 7–103(b) and (f)
19 Annotated Code of Maryland
20 (2021 Replacement Volume and 2023 Supplement)

21 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Criminal Law
2 Section 7–104.1
3 Annotated Code of Maryland
4 (2021 Replacement Volume and 2023 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
6 That the Laws of Maryland read as follows:

7 **Article – Criminal Law**

8 7–103.

9 (a) In this section, “value” means:

10 (1) the market value of the property or service at the time and place of the
11 crime; or

12 (2) if the market value cannot satisfactorily be ascertained, the cost of the
13 replacement of the property or service within a reasonable time after the crime.

14 (b) **[The] EXCEPT AS PROVIDED IN § 7–104.1 OF THIS SUBTITLE, THE** value
15 of property or service under this part shall be determined in accordance with this section.

16 (f) **(1)** When theft is committed in violation of this part under one scheme or
17 continuing course of conduct, whether from the same or several sources:

18 **[(1)] (I)** the conduct may be considered as one crime; and

19 **[(2)] (II)** the value of the property or services may be aggregated in
20 determining whether the theft is a felony or a misdemeanor.

21 **(2) MULTIPLE THEFTS COMMITTED BY THE SAME PERSON IN**
22 **MULTIPLE COUNTIES UNDER ONE SCHEME OR CONTINUING COURSE OF CONDUCT**
23 **MAY BE JOINED AND PROSECUTED IN ANY COUNTY IN WHICH ANY OF THE THEFTS**
24 **OCCURRED.**

25 **7–104.1.**

26 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
27 **INDICATED.**

28 **(2) “ORGANIZED RETAIL THEFT” MEANS THE COMMISSION, EITHER**
29 **ALONE OR IN CONCERT WITH ONE OR MORE OTHER PERSONS, OF A SERIES OF**
30 **THEFTS OF RETAIL MERCHANDISE FROM ONE OR MORE RETAIL MERCHANTS OVER**
31 **A 90–DAY PERIOD WITH THE INTENT TO:**

1 (I) PERMANENTLY DEPRIVE THE MERCHANT OF THE
2 MERCHANDISE;

3 (II) RETURN THE MERCHANDISE TO THE MERCHANT FOR
4 MONETARY OR OTHER GAIN; OR

5 (III) RESELL, TRADE, OR BARTER THE MERCHANDISE FOR
6 MONETARY OR OTHER GAIN.

7 (3) (I) "VALUE" HAS THE MEANING STATED IN § 7-103 OF THIS
8 SUBTITLE.

9 (II) "VALUE" INCLUDES THE MARKET VALUE OF ANY PROPERTY
10 DAMAGED IN FURTHERANCE OF THE CRIME AND ANY COSTS TO REPAIR, REPLACE,
11 OR RESTOCK ANY DAMAGED OR STOLEN PROPERTY.

12 (B) A PERSON MAY NOT COMMIT ORGANIZED RETAIL THEFT OF PROPERTY
13 WITH AN AGGREGATE VALUE EXCEEDING \$1,500.

14 (C) A PERSON WHO VIOLATES THIS SECTION:

15 (1) IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO
16 IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$5,000 OR
17 BOTH; AND

18 (2) SHALL:

19 (I) RESTORE THE PROPERTY TO THE OWNER; OR

20 (II) IF UNABLE TO RESTORE THE PROPERTY TO THE OWNER,
21 PAY TO THE OWNER THE FULL VALUE OF THE PROPERTY.

22 (D) (1) THIS SECTION DOES NOT PRECLUDE PROSECUTION FOR THEFT
23 UNDER § 7-104 OF THIS SUBTITLE.

24 (2) IF A PERSON IS CONVICTED UNDER § 7-104 OF THIS SUBTITLE
25 AND THIS SECTION FOR THE SAME ACTS OR TRANSACTIONS, THE CONVICTION
26 UNDER THIS SECTION SHALL MERGE FOR SENTENCING PURPOSES INTO THE
27 CONVICTION UNDER § 7-104 OF THIS SUBTITLE.

28 (E) (1) (I) IF A DEFENDANT IS CONVICTED OF OR RECEIVES A
29 PROBATION BEFORE JUDGMENT DISPOSITION FOR THEFT UNDER § 7-104 OF THIS
30 SUBTITLE, BURGLARY UNDER § 6-203 OR § 6-205 OF THIS ARTICLE, ROBBERY
31 UNDER § 3-402 OR § 3-403 OF THIS ARTICLE, OR USE OF A FIREARM IN THE

1 COMMISSION OF A CRIME OF VIOLENCE OR A FELONY UNDER § 4-204 OF THIS
2 ARTICLE, ON REQUEST OF THE STATE’S ATTORNEY THE COURT SHALL MAKE A
3 FINDING OF FACT BASED ON EVIDENCE PRODUCED AT TRIAL AS TO WHETHER THE
4 CRIME IS ORGANIZED RETAIL THEFT.

5 (II) THE STATE HAS THE BURDEN OF PROVING BY A
6 PREPONDERANCE OF THE EVIDENCE THAT THE CRIME IS ORGANIZED RETAIL
7 THEFT.

8 (2) IF THE COURT FINDS THAT THE CRIME IS ORGANIZED RETAIL
9 THEFT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THAT FINDING SHALL BECOME
10 PART OF THE COURT RECORD FOR PURPOSES OF REPORTING TO THE CRIMINAL
11 JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY UNDER § 10-215 OF THIS
12 ARTICLE.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2024.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.