

[Second Reprint]

ASSEMBLY, No. 4755

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED SEPTEMBER 19, 2024

Sponsored by:

Assemblyman JOE DANIELSEN

District 17 (Middlesex and Somerset)

Assemblyman ALEX SAUICKIE

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblywoman HEATHER SIMMONS

District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

Assemblymen McGuckin, Azzariti Jr., Assemblywomen N.Munoz, Drulis, Assemblymen Spearman, DiMaio, Kanitra, Stanley, Assemblywoman McCoy, Assemblyman Inganamort, Assemblywoman Haider, Assemblymen Hutchison, Clifton, Assemblywoman Matsikoudis, Assemblymen Auth, Karabinchak, Marengo, Peterson, Sampson, Calabrese, Bailey, Assemblywomen Reynolds-Jackson, Park, Assemblyman Verrelli, Assemblywomen McCann Stamato, Flynn, Fantasia, Murphy, Collazos-Gill, Assemblyman Freiman, Assemblywomen Donlon and Lopez

SYNOPSIS

Upgrades, and in some circumstances provides for extended terms of imprisonment for, certain retail theft crimes, addresses gift card fraud, and authorizes new Attorney General initiatives to address organized retail theft.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on February 20, 2025, with amendments.

(Sponsorship Updated As Of: 2/27/2025)

1 AN ACT concerning retail theft, amending and supplementing
2 various parts of the statutory law, and making an appropriation.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 7 of P.L.1981, c.167 (C.2C:20-7.1) is amended to
8 read as follows:

9 7. Fencing. a. Possession of altered property. Any dealer in
10 property who knew or should have known that the identifying
11 features such as serial numbers and permanently affixed labels of
12 property in his possession have been removed or altered without the
13 consent of the manufacturer is guilty of possession of altered
14 property. It is a defense to a prosecution under this subsection that
15 a person lawfully possesses the usual indicia of ownership in
16 addition to mere possession.

17 b. (1) Dealing in stolen property. A person is guilty of dealing in
18 stolen property if he traffics in, or initiates, organizes, plans,
19 finances, directs, manages or supervises trafficking in stolen
20 property, including through the use of an online platform via any
21 electronic device or through a social media site. This paragraph
22 shall not apply to dealing in stolen property consisting of a
23 domestic companion animal, addressed in paragraph (2) of this
24 subsection.

25 (2) Dealing in stolen domestic companion animals. A person is
26 guilty of dealing in stolen domestic companion animals if he
27 trafficks in, or initiates, organizes, plans, finances, directs, manages
28 or supervises trafficking in stolen property consisting of a domestic
29 companion animal.

30 c. (1) For any violation of this section, other than dealing in
31 stolen domestic companion animals, the value of the property
32 involved in the violation shall be determined by the trier of fact for
33 the purpose of determining the grade of the offense, and the value
34 of the property involved in the violation may be aggregated in
35 determining the grade of the offense where the acts or conduct
36 constituting a violation were committed pursuant to one scheme or
37 course of conduct, whether from the same person or several
38 persons.

39 (2) A violation of this section for dealing in stolen domestic
40 companion animals constitutes a crime of the third degree.

41 d. It is an affirmative defense to a prosecution under this
42 section that the actor:

43 (1) Was unaware that the property or service was that of
44 another;

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AJU committee amendments adopted February 13, 2025.

²Assembly AAP committee amendments adopted February 20, 2025.

(2) Acted under an honest claim of right to the property or service involved or that he had a right to acquire or dispose of it as he did.

e. In addition to the presumptions contained in subsection b. of N.J.S.2C:20-7, the following presumptions are available in the prosecution for a fencing offense:

(1) Proof of the purchase or sale of property at a price substantially below its fair market value, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property knew that it had been stolen;

(2) Proof of the purchase or sale of property by a dealer in that property, out of the regular course of business, or without the usual indicia of ownership other than mere possession, or the property or the job lot of which it is a part was bought, received, possessed or controlled in broken succession of title, so that it cannot be traced, by appropriate documents, in unbroken succession to the manufacturer, in all cases where the regular course of business reasonably indicates records of purchase, transfer or sale, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property knew that it had been stolen; and

(3) Proof that a person buying or selling property of the sort received obtained such property without having ascertained by reasonable inquiry that the person from whom he obtained it had a legal right to possess or control it gives rise to an inference that such person knew that it had been stolen.

(cf: P.L.2017, c.156, s.1)

2. (New section) a. ¹As used in P.L. , c. (C.) (pending before the Legislature as this bill):

“Online platform” means any public-facing Internet website, Internet web application, or computer or mobile application, including a social networking website or publication.

“Sale” means any sale, transfer, exchange, barter, or offer for sale and distribution, in any manner or by any means whatsoever, including, but not limited to, via an online platform.

b.¹ A person is guilty of fostering the sale of stolen property, a disorderly persons offense, if the person ¹**【**:

(1) hosts ¹ , ¹acting alone or in concert with another person or persons,¹ advertises ¹**【**,¹ or otherwise assists ¹, by any means, including through personal contact or through the use of an online platform or any other communications channel or medium,¹ in the sale of ¹**【**stolen goods, including through an online platform; and

(2) knows or reasonably should know that the property was stolen. The requisite knowledge is presumed in the case of a person who undertook a substantial and unjustifiable risk that the persons actions would result in the sale of stolen property **】** property of another knowing that it has been stolen or reasonably believing that ²**【is it ¹ it is² stolen¹.**

1 ¹[b. As defined in this act:

2 “Online platform” means any public-facing Internet website,
3 Internet web application, or computer or mobile application, including
4 a social networking website or publication.

5 “Sale” means any sale, transfer, exchange, barter, or offer for sale
6 and distribution, in any manner or by any means whatsoever,
7 including, but not limited to, via an online platform.

8 “Stolen property” shall have the same meaning as defined pursuant
9 to N.J.S.2C:20-1.】

10 c. The following presumptions are available in the prosecution of
11 an offense under this section of fostering the sale of stolen property:

12 (1) Proof of the property being advertised for sale at a price
13 substantially below its fair market value, unless satisfactorily
14 explained, gives rise to an inference that the person advertising or
15 otherwise assisting in the sale of the property knew that it is stolen or
16 reasonably believed that the property is stolen; and

17 (2) Proof that a person advertised or otherwise assisted in the sale
18 of the property without having ascertained by reasonable inquiry that
19 the person offering the property for sale had a legal right to possess or
20 control it gives rise to an inference that such person knew that it is
21 stolen or reasonably believed that it is stolen.

22 d. Nothing in this section shall be construed to preclude or limit
23 the prosecution or conviction of any person for any other crime or
24 offense.¹

25

26 3. N.J.S.2C:12-1 is amended as follows:

27 2C:12-1. Assault. a. Simple assault. A person is guilty of assault if
28 the person:

29 (1) Attempts to cause or purposely, knowingly or recklessly causes
30 bodily injury to another; or

31 (2) Negligently causes bodily injury to another with a deadly
32 weapon; or

33 (3) Attempts by physical menace to put another in fear of
34 imminent serious bodily injury.

35 Simple assault is a disorderly persons offense unless committed in
36 a fight or scuffle entered into by mutual consent, in which case it is a
37 petty disorderly persons offense.

38 b. Aggravated assault. A person is guilty of aggravated assault if
39 the person:

40 (1) Attempts to cause serious bodily injury to another, or causes
41 injury purposely or knowingly or under circumstances manifesting
42 extreme indifference to the value of human life recklessly causes such
43 injury; or

44 (2) Attempts to cause or purposely or knowingly causes bodily
45 injury to another with a deadly weapon; or

46 (3) Recklessly causes bodily injury to another with a deadly
47 weapon; or

- 1 (4) Knowingly under circumstances manifesting extreme
2 indifference to the value of human life points a firearm, as defined in
3 subsection f. of N.J.S.2C:39-1, at or in the direction of another,
4 whether or not the actor believes it to be loaded; or
- 5 (5) Commits a simple assault as defined in paragraph (1), (2), or
6 (3) of subsection a. of this section upon:
- 7 (a) Any law enforcement officer acting in the performance of the
8 officer's duties while in uniform or exhibiting evidence of authority or
9 because of the officer's status as a law enforcement officer; or
- 10 (b) Any paid or volunteer firefighter acting in the performance of
11 the firefighter's duties while in uniform or otherwise clearly
12 identifiable as being engaged in the performance of the duties of a
13 firefighter; or
- 14 (c) Any person engaged in emergency first-aid or medical services
15 acting in the performance of the person's duties while in uniform or
16 otherwise clearly identifiable as being engaged in the performance of
17 emergency first-aid or medical services; or
- 18 (d) Any school board member, school administrator, teacher,
19 school bus driver, or other employee of a public or nonpublic school or
20 school board while clearly identifiable as being engaged in the
21 performance of the person's duties or because of the person's status as
22 a member or employee of a public or nonpublic school or school board
23 or any school bus driver employed by an operator under contract to a
24 public or nonpublic school or school board while clearly identifiable as
25 being engaged in the performance of the person's duties or because of
26 the person's status as a school bus driver; or
- 27 (e) Any employee of the Division of Child Protection and
28 Permanency while clearly identifiable as being engaged in the
29 performance of the employee's duties or because of the status as an
30 employee of the division; or
- 31 (f) Any justice of the Supreme Court, judge of the Superior Court,
32 judge of the Tax Court or municipal judge while clearly identifiable as
33 being engaged in the performance of judicial duties or because of the
34 status as a member of the judiciary; or
- 35 (g) Any operator of a motorbus or the operator's supervisor or any
36 employee of a rail passenger service while clearly identifiable as being
37 engaged in the performance of the person's duties or because of the
38 status as an operator of a motorbus or as the operator's supervisor or as
39 an employee of a rail passenger service; or
- 40 (h) Any Department of Corrections employee, county correctional
41 police officer, juvenile correctional police officer, State juvenile
42 facility employee, juvenile detention staff member, juvenile detention
43 officer, probation officer or any sheriff, undersheriff, or sheriff's
44 officer acting in the performance of the person's duties while in
45 uniform or exhibiting evidence of the person's authority or because of
46 the status as a Department of Corrections employee, county
47 correctional police officer, juvenile correctional police officer, State
48 juvenile facility employee, juvenile detention staff member, juvenile

1 detention officer, probation officer, sheriff, undersheriff, or sheriff's
2 officer; or

3 (i) Any employee, including any person employed under contract,
4 of a utility company as defined in section 2 of P.L.1971, c.224
5 (C.2A:42-86) or a cable television company subject to the provisions
6 of the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.)
7 while clearly identifiable as being engaged in the performance of the
8 employee's duties in regard to connecting, disconnecting, or repairing
9 or attempting to connect, disconnect, or repair any gas, electric, or
10 water utility, or cable television or telecommunication service; or

11 (j) Any health care worker employed by a licensed health care
12 facility to provide direct patient care, any health care professional
13 licensed or otherwise authorized pursuant to Title 26 or Title 45 of the
14 Revised Statutes to practice a health care profession, except a direct
15 care worker at a State or county psychiatric hospital or State
16 developmental center or veterans' memorial home, while clearly
17 identifiable as being engaged in the duties of providing direct patient
18 care or practicing the health care profession; or

19 (k) Any direct care worker at a State or county psychiatric hospital
20 or State developmental center or veterans' memorial home, while
21 clearly identifiable as being engaged in the duties of providing direct
22 patient care or practicing the health care profession, provided that the
23 actor is not a patient or resident at the facility who is classified by the
24 facility as having a mental illness or developmental disability; or

25 (l) Any employee of a 'store or other' retail mercantile
26 establishment 'I. "Employee of a retail mercantile establishment"
27 means any person, I' while clearly identifiable as being engaged in the
28 performance of the person's duties 'I, engaged in the sale, display, or
29 offering for sale of consumer commodities and who is employed by
30 any place of business where merchandise is displayed, held, stored, or
31 sold or offered at retail to members of consuming public I . "Store or
32 other retail mercantile establishment" means the same as such term is
33 defined in N.J.S.2C:20-11. "Employee" means any person who
34 provides customer assistance, store management, visual
35 merchandising, loss prevention or security services, whether in
36 uniform or in plain clothes, or who acts as a cashier, salesperson, or
37 team associate or otherwise interacts with customers for or on behalf
38 of the store or other retail mercantile establishment I; or

39 (6) Causes bodily injury to another person while fleeing or
40 attempting to elude a law enforcement officer in violation of
41 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
42 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any
43 other provision of law to the contrary, a person shall be strictly liable
44 for a violation of this paragraph upon proof of a violation of subsection
45 b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of
46 subsection c. of N.J.S.2C:20-10 which resulted in bodily injury to
47 another person; or

- 1 (7) Attempts to cause significant bodily injury to another or causes
2 significant bodily injury purposely or knowingly or, under
3 circumstances manifesting extreme indifference to the value of human
4 life recklessly causes such significant bodily injury; or
- 5 (8) Causes bodily injury by knowingly or purposely starting a fire
6 or causing an explosion in violation of N.J.S.2C:17-1 which results in
7 bodily injury to any emergency services personnel involved in fire
8 suppression activities, rendering emergency medical services resulting
9 from the fire or explosion or rescue operations, or rendering any
10 necessary assistance at the scene of the fire or explosion, including any
11 bodily injury sustained while responding to the scene of a reported fire
12 or explosion. For purposes of this paragraph, “emergency services
13 personnel” shall include, but not be limited to, any paid or volunteer
14 firefighter, any person engaged in emergency first-aid or medical
15 services and any law enforcement officer. Notwithstanding any other
16 provision of law to the contrary, a person shall be strictly liable for a
17 violation of this paragraph upon proof of a violation of N.J.S.2C:17-1
18 which resulted in bodily injury to any emergency services personnel;
19 or
- 20 (9) Knowingly, under circumstances manifesting extreme
21 indifference to the value of human life, points or displays a firearm, as
22 defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a law
23 enforcement officer; or
- 24 (10) Knowingly points, displays or uses an imitation firearm, as
25 defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a
26 law enforcement officer with the purpose to intimidate, threaten, or
27 attempt to put the officer in fear of bodily injury or for any unlawful
28 purpose; or
- 29 (11) Uses or activates a laser sighting system or device, or a
30 system or device which, in the manner used, would cause a reasonable
31 person to believe that it is a laser sighting system or device, against a
32 law enforcement officer acting in the performance of the officer’s
33 duties while in uniform or exhibiting evidence of the officer’s
34 authority. As used in this paragraph, “laser sighting system or device”
35 means any system or device that is integrated with or affixed to a
36 firearm and emits a laser light beam that is used to assist in the sight
37 alignment or aiming of the firearm; or
- 38 (12) Attempts to cause significant bodily injury or causes
39 significant bodily injury purposely or knowingly or, under
40 circumstances manifesting extreme indifference to the value of human
41 life, recklessly causes significant bodily injury to a person who, with
42 respect to the actor, meets the definition of a victim of domestic
43 violence, as defined in subsection d. of section 3 of P.L.1991, c.261
44 (C.2C:25-19); or
- 45 (13) Knowingly or, under circumstances manifesting extreme
46 indifference to the value of human life, recklessly obstructs the
47 breathing or blood circulation of a person who, with respect to the
48 actor, meets the definition of a victim of domestic violence, as defined
49 in subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-19), by

1 applying pressure on the throat or neck or blocking the nose or mouth
2 of such person, thereby causing or attempting to cause bodily injury.

3 Aggravated assault under paragraphs (1) and (6) of subsection b. of
4 this section is a crime of the second degree; under paragraphs (2), (7),
5 (9), and (10) of subsection b. of this section is a crime of the third
6 degree; under paragraphs (3) and (4) of subsection b. of this section is
7 a crime of the fourth degree; and under paragraph (5) of subsection b.
8 of this section is a crime of the third degree if the victim suffers bodily
9 injury, otherwise it is a crime of the fourth degree, except that any
10 aggravated assault under subparagraph (g) of paragraph (5) of
11 subsection b. of this section shall be a crime of the third degree.
12 Aggravated assault under paragraph (8) of subsection b. of this section
13 is a crime of the third degree if the victim suffers bodily injury; if the
14 victim suffers significant bodily injury or serious bodily injury it is a
15 crime of the second degree. Aggravated assault under paragraph (11)
16 of subsection b. of this section is a crime of the third degree.
17 Aggravated assault under paragraph (12) of subsection b. of this
18 section is a crime of the third degree but the presumption of non-
19 imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first
20 offense of a crime of the third degree shall not apply. Aggravated
21 assault under paragraph (13) of subsection b. of this section is a crime
22 of the second degree.

23 c. (1) A person is guilty of assault by auto or vessel when the
24 person drives a vehicle or vessel recklessly and causes either serious
25 bodily injury or bodily injury to another. Assault by auto or vessel is a
26 crime of the fourth degree if serious bodily injury results and is a
27 disorderly persons offense if bodily injury results. Proof that the
28 defendant was operating a hand-held wireless telephone while driving
29 a motor vehicle in violation of section 1 of P.L.2003, c.310 (C.39:4-
30 97.3) may give rise to an inference that the defendant was driving
31 recklessly.

32 (2) Assault by auto or vessel is a crime of the third degree if the
33 person drives the vehicle while in violation of R.S.39:4-50 or section 2
34 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily injury results and
35 is a crime of the fourth degree if the person drives the vehicle while in
36 violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a)
37 and bodily injury results.

38 (3) Assault by auto or vessel is a crime of the second degree if
39 serious bodily injury results from the defendant operating the auto or
40 vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981,
41 c.512 (C.39:4-50.4a) while:

42 (a) on any school property used for school purposes which is
43 owned by or leased to any elementary or secondary school or school
44 board, or within 1,000 feet of such school property;

45 (b) driving through a school crossing as defined in R.S.39:1-1 if
46 the municipality, by ordinance or resolution, has designated the school
47 crossing as such; or

1 (c) driving through a school crossing as defined in R.S.39:1-1
2 knowing that juveniles are present if the municipality has not
3 designated the school crossing as such by ordinance or resolution.

4 Assault by auto or vessel is a crime of the third degree if bodily
5 injury results from the defendant operating the auto or vessel in
6 violation of this paragraph.

7 A map or true copy of a map depicting the location and boundaries
8 of the area on or within 1,000 feet of any property used for school
9 purposes which is owned by or leased to any elementary or secondary
10 school or school board produced pursuant to section 1 of P.L.1987,
11 c.101 (C.2C:35-7) may be used in a prosecution under subparagraph
12 (a) of paragraph (3) of this subsection.

13 It shall be no defense to a prosecution for a violation of
14 subparagraph (a) or (b) of paragraph (3) of this subsection that the
15 defendant was unaware that the prohibited conduct took place while on
16 or within 1,000 feet of any school property or while driving through a
17 school crossing. Nor shall it be a defense to a prosecution under
18 subparagraph (a) or (b) of paragraph (3) of this subsection that no
19 juveniles were present on the school property or crossing zone at the
20 time of the offense or that the school was not in session.

21 (4) Assault by auto or vessel is a crime of the third degree if the
22 person purposely drives a vehicle in an aggressive manner directed at
23 another vehicle and serious bodily injury results and is a crime of the
24 fourth degree if the person purposely drives a vehicle in an aggressive
25 manner directed at another vehicle and bodily injury results. For
26 purposes of this paragraph, "driving a vehicle in an aggressive
27 manner" shall include, but is not limited to, unexpectedly altering the
28 speed of the vehicle, making improper or erratic traffic lane changes,
29 disregarding traffic control devices, failing to yield the right of way, or
30 following another vehicle too closely.

31 As used in this subsection, "vessel" means a means of conveyance
32 for travel on water and propelled otherwise than by muscular power.

33 d. A person who is employed by a facility as defined in section 2
34 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as
35 defined in paragraph (1) or (2) of subsection a. of this section upon an
36 institutionalized elderly person as defined in section 2 of P.L.1977,
37 c.239 (C.52:27G-2) is guilty of a crime of the fourth degree.

38 e. (Deleted by amendment, P.L.2001, c.443).

39 f. A person who commits a simple assault as defined in paragraph
40 (1), (2), or (3) of subsection a. of this section in the presence of a child
41 under 16 years of age at a school or community sponsored youth sports
42 event is guilty of a crime of the fourth degree. The defendant shall be
43 strictly liable upon proof that the offense occurred, in fact, in the
44 presence of a child under 16 years of age. It shall not be a defense that
45 the defendant did not know that the child was present or reasonably
46 believed that the child was 16 years of age or older. The provisions of
47 this subsection shall not be construed to create any liability on the part
48 of a participant in a youth sports event or to abrogate any immunity or
49 defense available to a participant in a youth sports event. As used in

1 this act, “school or community sponsored youth sports event” means a
2 competition, practice, or instructional event involving one or more
3 interscholastic sports teams or youth sports teams organized pursuant
4 to a nonprofit or similar charter or which are member teams in a youth
5 league organized by or affiliated with a county or municipal recreation
6 department and shall not include collegiate, semi-professional or
7 professional sporting events.

8 (cf: P.L.2021, c.352, s.1)

9
10 4. N.J.S.2C:20-11 is amended to read as follows:

11 a. Definitions. The following definitions apply to this section:

12 (1) “Shopping cart” means those push carts of the type or types
13 which are commonly provided by grocery stores, drug stores or other
14 retail mercantile establishments for the use of the public in
15 transporting commodities in stores and markets and, incidentally,
16 from the stores to a place outside the store;

17 (2) “Store or other retail mercantile establishment” means a place
18 where merchandise is displayed, held, stored or sold or offered to the
19 public for sale;

20 (3) “Merchandise” means any goods, chattels, foodstuffs or wares
21 of any type and description, regardless of the value thereof;

22 (4) “Merchant” means any owner or operator of any store or other
23 retail mercantile establishment, or any agent, servant, employee,
24 lessee, consignee, officer, director, franchisee or independent
25 contractor of such owner or proprietor;

26 (5) “Person” means any individual or individuals, including an
27 agent, servant or employee of a merchant where the facts of the
28 situation so require;

29 (6) “Conceal” means to conceal merchandise so that, although
30 there may be some notice of its presence, it is not visible through
31 ordinary observation;

32 (7) “Full retail value” means the merchant’s stated or advertised
33 price of the merchandise;

34 (8) “Premises of a store or retail mercantile establishment” means
35 and includes but is not limited to, the retail mercantile establishment;
36 any common use areas in shopping centers and all parking areas set
37 aside by a merchant or on behalf of a merchant for the parking of
38 vehicles for the convenience of the patrons of such retail mercantile
39 establishment;

40 (9) “Under-ring” means to cause the cash register or other sale
41 recording device to reflect less than the full retail value of the
42 merchandise;

43 (10) “Antishoplifting or inventory control device countermeasure”
44 means any item or device which is designed, manufactured, modified,
45 or altered to defeat any antishoplifting or inventory control device;

46 (11) “Organized retail theft enterprise” means any association of
47 two or more persons who engage in the conduct of or are associated
48 for the purpose of effectuating the transfer or sale of shoplifted
49 merchandise.

1 b. Shoplifting. Shoplifting shall consist of any one or more of the
2 following acts:

3 (1) For any person purposely to take possession of, carry away,
4 transfer or cause to be carried away or transferred, any merchandise
5 displayed, held, stored or offered for sale by any store or other retail
6 mercantile establishment with the intention of depriving the merchant
7 of the possession, use or benefit of such merchandise or converting the
8 same to the use of such person without paying to the merchant the full
9 retail value thereof.

10 (2) For any person purposely to conceal upon his person or
11 otherwise any merchandise offered for sale by any store or other retail
12 mercantile establishment with the intention of depriving the merchant
13 of the processes, use or benefit of such merchandise or converting the
14 same to the use of such person without paying to the merchant the
15 value thereof.

16 (3) For any person purposely to alter, transfer or remove any label,
17 price tag or marking indicia of value or any other markings which aid
18 in determining value affixed to any merchandise displayed, held,
19 stored or offered for sale by any store or other retail mercantile
20 establishment and to attempt to purchase such merchandise personally
21 or in consort with another at less than the full retail value with the
22 intention of depriving the merchant of all or some part of the value
23 thereof.

24 (4) For any person purposely to transfer any merchandise
25 displayed, held, stored or offered for sale by any store or other retail
26 merchandise establishment from the container in or on which the same
27 shall be displayed to any other container with intent to deprive the
28 merchant of all or some part of the retail value thereof.

29 (5) For any person purposely to under-ring with the intention of
30 depriving the merchant of the full retail value thereof.

31 (6) For any person purposely to remove a shopping cart from the
32 premises of a store or other retail mercantile establishment without the
33 consent of the merchant given at the time of such removal with the
34 intention of permanently depriving the merchant of the possession, use
35 or benefit of such cart.

36 c. Gradation. (1) Shoplifting constitutes a crime of the second
37 degree under subsection b. of this section if the full retail value of the
38 merchandise is \$75,000 or more, or the offense is committed in
39 furtherance of or in conjunction with an organized retail theft
40 enterprise and the full retail value of the merchandise is \$1,000 or
41 more.

42 (2) Shoplifting constitutes a crime of the third degree under
43 subsection b. of this section if the full retail value of the merchandise
44 exceeds \$500 but is less than \$75,000, or the offense is committed in
45 furtherance of or in conjunction with an organized retail theft
46 enterprise and the full retail value of the merchandise is less than
47 \$1,000.

1 (3) Shoplifting constitutes a crime of the fourth degree under
2 subsection b. of this section if the full retail value of the merchandise
3 is at least \$200 but does not exceed \$500.

4 (4) Shoplifting is a disorderly persons offense under subsection b.
5 of this section if the full retail value of the merchandise is less than
6 \$200.

7 The '[total]' value of the merchandise involved in a violation or
8 'in' multiple violations of this section may be aggregated '[within the
9 previous one-year period]' in determining the grade of the offense
10 where the acts or conduct constituting a violation were committed
11 pursuant to one scheme or course of conduct, whether from the same
12 person or several persons 'and regardless of the time period over
13 which the scheme or course of conduct took place', or were committed
14 in furtherance of or in conjunction with an organized retail theft
15 enterprise.

16 Additionally, notwithstanding the term of imprisonment provided
17 in N.J.S.2C:43-6 or 2C:43-8, any person convicted of a shoplifting
18 offense shall be sentenced to perform community service as follows:
19 for a first offense, at least ten days of community service; for a second
20 offense, at least 15 days of community service; and for a third or
21 subsequent offense, a maximum of 25 days of community service and
22 any person convicted of a third or subsequent shoplifting offense shall
23 serve a minimum term of imprisonment of not less than 90 days.

24 d. Presumptions. Any person purposely concealing unpurchased
25 merchandise of any store or other retail mercantile establishment,
26 either on the premises or outside the premises of such store or other
27 retail mercantile establishment, shall be prima facie presumed to have
28 so concealed such merchandise with the intention of depriving the
29 merchant of the possession, use or benefit of such merchandise
30 without paying the full retail value thereof, and the finding of such
31 merchandise concealed upon the person or among the belongings of
32 such person shall be prima facie evidence of purposeful concealment;
33 and if such person conceals, or causes to be concealed, such
34 merchandise upon the person or among the belongings of another, the
35 finding of the same shall also be prima facie evidence of willful
36 concealment on the part of the person so concealing such merchandise.

37 e. A law enforcement officer, or a special officer, or a merchant,
38 who has probable cause for believing that a person has willfully
39 concealed unpurchased merchandise and that he can recover the
40 merchandise by taking the person into custody, may, for the purpose of
41 attempting to effect recovery thereof, take the person into custody and
42 detain him in a reasonable manner for not more than a reasonable time,
43 and the taking into custody by a law enforcement officer or special
44 officer or merchant shall not render such person criminally or civilly
45 liable in any manner or to any extent whatsoever.

46 Any law enforcement officer may arrest without warrant any
47 person he has probable cause for believing has committed the offense
48 of shoplifting as defined in this section.

1 A merchant who causes the arrest of a person for shoplifting, as
2 provided for in this section, shall not be criminally or civilly liable in
3 any manner or to any extent whatsoever where the merchant has
4 probable cause for believing that the person arrested committed the
5 offense of shoplifting.

6 f. Any person who possesses or uses any antishoplifting or
7 inventory control device countermeasure within any store or other
8 retail mercantile establishment is guilty of a disorderly persons
9 offense.
10 (cf: P.L.2006, c.56, s.1)

11
12 ¹5. Section 2 of P.L.2006, c.56 (C.2C:20-11.2) is amended to
13 read as follows:

14 2. A person is a leader of an organized retail theft enterprise if
15 he conspires with others as an organizer, supervisor, financier or
16 manager, to engage for profit in a scheme or course of conduct to
17 effectuate the transfer or sale of shoplifted merchandise. Leader of
18 organized retail theft enterprise is a crime of the ~~second~~ first
19 degree. Notwithstanding the provisions of subsection a. of
20 N.J.S.2C:43-3, the court may impose a fine not to exceed \$250,000
21 or five times the retail value of the merchandise seized at the time
22 of the arrest, whichever is greater.

23 Notwithstanding the provisions of N.J.S.2C:1-8, a conviction of
24 leader of organized retail theft enterprise shall not merge with the
25 conviction for any offense which is the object of the conspiracy.
26 Nothing contained in this section shall prohibit the court from
27 imposing an extended term pursuant to N.J.S.2C:43-7; nor shall this
28 section be construed in any way to preclude or limit the prosecution
29 or conviction of any person for conspiracy under N.J.S.2C:5-2, or
30 any prosecution or conviction for any other offense.

31 It shall not be necessary in any prosecution under this section for
32 the State to prove that any intended profit was actually realized. The
33 trier of fact may infer that a particular scheme or course of conduct
34 was undertaken for profit from all of the attending circumstances,
35 including but not limited to the number of persons involved in the
36 scheme or course of conduct, the actor's net worth and his
37 expenditures in relation to his legitimate sources of income, the
38 amount of merchandise involved, or the amount of cash or currency
39 involved.

40 It shall not be a defense to a prosecution under this section that
41 any shoplifted merchandise was brought into or transported in this
42 State solely for ultimate distribution in another jurisdiction; nor
43 shall it be a defense that any profit was intended to be made in
44 another jurisdiction.

45 (cf: P.L.2006, c.56, s.2)¹

46
47 ¹6. 5.¹ (New section) a. Upon request of the prosecutor, a
48 person who has been convicted of shoplifting pursuant to

1 N.J.S.2C:20-11, receiving stolen property pursuant to N.J.S.2C:20-
2 7, leader of organized retail theft enterprise pursuant to section 2 of
3 P.L.2006, c.56 (C.2C:20-11.2); or theft as defined in chapter 20 of
4 Title 2C of the New Jersey Statutes that involves the stealing of
5 merchandise from a retail mercantile establishment shall be
6 sentenced to an extended term of imprisonment pursuant to
7 N.J.S.2C:43-7 if the person has previously been convicted on two or
8 more prior and separate occasions, regardless of the dates of the
9 convictions, in accordance with the provisions of subsection b. of
10 this section, for a violation of paragraphs (1) or (2) of subsection c.
11 of N.J.S.2C:20-11, N.J.S.2C:20-7, section 2 of P.L.2006, c.56
12 (C.2C:20-11.2), or theft as defined in chapter 20 of Title 2C of the
13 New Jersey Statutes involving the stealing of merchandise, or a
14 crime under any statute of the United States, this State, or any other
15 state for a crime that is substantially equivalent to a violation of
16 shoplifting, leader of organized retail theft enterprise, or theft
17 involving merchandise.

18 b. The provisions of this section shall not apply unless the prior
19 convictions are for crimes committed on separate occasions and the
20 crime for which the defendant is being sentenced was committed
21 either:

22 (1) within 10 years of the date of the defendant's last release
23 from confinement for the commission of any crime; or

24 (2) within 10 years of the date of the commission of the most
25 recent of the crimes enumerated in subsection a. of this section for
26 which the defendant has a prior conviction.

27 c. Prior convictions shall be defined and proven in accordance
28 with N.J.S.2C:44-4.

29 d. The court shall not impose a sentence of imprisonment
30 pursuant to this section unless the ground therefor has been
31 established at a hearing after the conviction of the defendant and on
32 written notice to the defendant of the ground proposed. The
33 defendant shall have the right to hear and controvert the evidence
34 against him and to offer evidence upon the issue.
35

36 ¹~~7.~~ ^{6.}¹ (New section) a. The Attorney General shall ¹~~],~~ in
37 consultation with the Director of the Division of Criminal Justice,
38 ~~establish~~ undertake such steps as the Attorney General deems
39 appropriate to promote the effective investigation, prosecution, and
40 deterrence of organized retail theft in this State, which may include
41 establishing¹ a retail theft unit ¹, task force,¹ or other appropriate
42 office ¹or initiative¹ in the Department of Law and Public Safety to
43 combat organized retail theft ¹~~in this State.~~ The Attorney General
44 shall ¹~~or the implementation of a Statewide policy to direct and~~
45 coordinate State and local law enforcement efforts to¹ investigate
46 ¹~~], coordinate, and supply resources to~~ and¹ prosecute organized
47 retail theft.

1 b. (1). In a manner prescribed by the Attorney General, a
2 county prosecutor, law enforcement officer, special officer, or retail
3 merchant may notify the Division of Criminal Justice ¹, or other
4 entity within the Department of Law and Public Safety designated
5 by the Attorney General to receive notice,¹ of allegations that a
6 crime of retail theft was committed.

7 (2) In a manner prescribed by the Attorney General, a county
8 prosecutor shall notify the Division of Criminal Justice ¹, or other
9 entity within the Department of Law and Public Safety designated
10 by the Attorney General to receive notice,¹ that a crime of retail
11 theft was allegedly committed by a defendant if:

12 (a) there is probable cause that the defendant has committed two
13 or more acts of retail theft in the State;

14 (b) there is probable cause that the defendant has committed one
15 or more acts of retail theft in this State and one or more acts of
16 retail theft in another state; or

17 (c) the defendant has previously been convicted of retail theft in
18 this State or another state.

19 c. ¹**【The】** In addition to any other authority provided under the
20 law, the¹ Division of Criminal Justice shall have the authority to:

21 (1) investigate and, if warranted, prosecute cases concerning
22 acts of retail theft; and

23 (2) assist county prosecutors in the investigation and prosecution
24 of acts of retail theft.

25 d. As used in this section, “retail theft” shall include the crimes
26 of shoplifting pursuant to N.J.S.2C:20-11; leader of organized retail
27 theft enterprise pursuant to section 2 of P.L.2006, c.56 (C.2C:20-
28 11.2); or theft as defined in chapter 20 of Title 2C of the New
29 Jersey Statutes that involves the stealing of merchandise.

30
31 ¹**【8.】** 7.¹ Section 19 of P.L.1987, c.76 (C.54:52-9) is amended
32 to read as follows:

33 19. a. A person is guilty of a crime ²**【of the third degree】**² if he
34 fails to pay or turn over when due any tax, fee, penalty or interest or
35 any part thereof required to be paid pursuant to the provisions of the
36 State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., as amended
37 and supplemented, or any State tax law, with the intent to evade,
38 avoid or otherwise not make timely payment or deposit of any tax,
39 fee, penalty or interest or any part thereof. The crime shall be of
40 the second degree if ¹**【a person fails to pay or turn over when due**
41 **any】** any portion of the¹ tax, fee, penalty or interest or any part
42 thereof required to be paid ¹**【in connection with the person being a**
43 **leader of an organized retail theft enterprise】** or turned over was
44 accrued through conduct committed¹ in violation ¹of¹ section 2 of
45 P.L.2006, c.56 (C.2C:20-11.2) ¹, otherwise it shall be a crime of the
46 third degree¹.

1 b. The fact that any payment was made with a subsequently
2 dishonored negotiable instrument shall constitute prima facie
3 evidence that the actor failed to pay within the meaning of
4 subsection a. of this section, and the trier of fact may draw a
5 permissive inference therefrom that the actor did not intend to make
6 the payment.

7 (cf: P.L.1987, c.76, s.19)

8
9 ¹**[9.] 8.**¹ Section 25 of P.L.1987, c.76 (C.54:52-15) is
10 amended to read as follows:

11 25. A person is guilty of a crime of the third degree if ¹**[he]**¹,
12 after having collected or withheld taxes as required by any State tax
13 law, whether or not ¹**[he]** the person¹ is authorized, licensed, or
14 registered to collect or withhold taxes, ¹the person¹ purposely fails
15 to turn over the taxes to the Director of the Division of Taxation in
16 the manner and at the time prescribed by law. The crime shall be of
17 the second degree if the amount of the tax collected or withheld is
18 \$75,000.00 or more, or if the ¹**[person is a leader of]** taxes the
19 person failed to turn over to the Director of the Division of Taxation
20 were collected or withheld as part of¹ an organized retail theft
21 enterprise in violation of section 2 of P.L.2006, c.56 (C.2C:20-
22 11.2).

23 (cf: P.L.1987, c.76, s.25)

24
25 ¹**[10.] 9.**¹ Section 1 of P.L.2021, c.431 (C.56:8-110.1) is
26 amended to read as follows:

27 1. a. Every retail mercantile establishment in this State that
28 displays ¹**[open-loop gift cards or closed-loop]**¹ gift cards for sale
29 shall train employees on how to identify and respond to ¹**[open-**
30 **loop gift card or closed-loop]**¹ gift card fraud. A retail mercantile
31 establishment shall conduct the training in accordance with
32 guidelines issued pursuant to section 2 of **[this act]** P.L.2021, c.431
33 (C.56:8-110.2).

34 b. A retail mercantile establishment that violates the provisions
35 of this section or section 10 of P.L. , c. (C.) (pending
36 before the Legislature as this bill) shall be subject to a civil penalty
37 of \$1,000, which may be collected and enforced by the Director of
38 the Division of Consumer Affairs in the Department of Law and
39 Public Safety in a summary proceeding pursuant to the “Penalty
40 Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).
41 The Superior Court shall have jurisdiction of proceedings for the
42 enforcement of the penalty provided by this section.

43 A violation of this section shall not be considered an unlawful
44 practice in violation of P.L.1960, c.39 (C.56:8-1 et seq.).

c. As used in ¹**[this]**¹ **[section]** P.L.2021, c.431, ²(C.56:8-110.1 et seq.),² and section 10 of P.L. , c. (C.) (pending before the Legislature as this bill):

¹**“Closed-loop gift card” means a gift card, code or device that is:**

(1) issued to a consumer on a prepaid basis primarily for personal, family, or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment; and

(2) redeemable on presentation by a consumer at a single retail mercantile establishment or a group of affiliated retail mercantile establishments.

“Gift card” means a tangible device, whereon is embedded or encoded in an electronic or other format a value issued in exchange for payment, which promises to provide to the bearer merchandise of equal value to the remaining balance of the device. **】**

“Gift card” means a tangible device, whereon is embedded or encoded in an electronic or other format a value issued in exchange for payment, which promises to provide to the bearer merchandise of equal value to the remaining balance of the device. A “gift card” shall not include a stored value reloadable card as defined in subsection k. of section 5 of P.L.2010, c.25 (C.46:30B-42.1).¹

“Merchandise” means any objects, wares, goods, commodities, services, or anything offered, directly or indirectly, to the public for sale.

¹**“Open-Loop Gift Card” means a card, code, or device that is:**

(1) issued to a consumer on a prepaid basis primarily for personal, family, or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment;

(2) payment card network branded; and

(3) redeemable on presentation at multiple unaffiliated merchants for goods or services within the payment card network or usable at an automated teller machine. **】**¹

“Retail mercantile establishment” means any place of business where merchandise is exposed or offered for sale at retail to members of the consuming public.

“Third-Party Gift Card Reseller” means a merchant who, without authorization from or affiliation with the business entity issuing ¹**[an open- or closed-loop]** a¹ gift card, is engaged in the business of:

(1) buying ¹**[an open- or closed-loop]**¹ gift cards on behalf of consumers; or

(2) reselling ¹**[an open- or closed-loop]**¹ gift cards to consumers.
(cf: P.L.2021, c.431, s.1)

1 ¹**11.1** 10.1 (New section) a. The Director of the Division of
2 Consumer Affairs in the Department of Law and Public Safety shall
3 create and ¹**provide** make available on its Internet website¹ a
4 notice to customers of¹ retail mercantile establishments which
5 shall include, but not be limited to:

6 (1) the risk of gift card scams; and

7 (2) available assistance, including from the Division of
8 Consumer Affairs, a consumer may seek if the consumer suspects
9 they may be a victim of a gift card scam.

10 b. (1) ¹**Except as provided in subsection e. of this section, a**
11 A¹ retail mercantile establishment may not knowingly sell ¹**an**
12 open-loop gift card or closed-loop¹ a gift card to a consumer
13 unless the retail mercantile establishment conspicuously displays a
14 notice in a form as prescribed by the Director of the Division of
15 Consumer Affairs in accordance with subsection a. of this section.

16 (2) For in-person sales, the notice shall be placed at or near the
17 physical location where the ¹**open-loop**¹ gift card is displayed for
18 sale or where the ¹**sale of the open-loop**¹ gift card ¹**is sold** sales
19 transaction takes place¹.

20 (3) For online sales of ¹**open-loop**¹ gift cards, the notice shall
21 be displayed on the webpage where the gift card is offered for sale
22 or before the sale is finalized.

23 c. ¹**For the sale of an open-loop** Except as otherwise
24 provided in subsection d. of this section, a retail mercantile
25 establishment may not display or sell a¹ gift card ¹**pursuant to**
26 paragraph (2) of subsection b., the gift card shall be enclosed in
27 packaging that ¹**unless**:

28 (1) the gift card or its packaging includes in a manner visible to
29 potential purchasers when on display a warning that states “Do not
30 sell or purchase if the gift card or its packaging has been broken or
31 indicates tampering” or that uses substantially similar language;

32 (2) the gift card, if enclosed in packaging,¹ is sealed in a manner
33 that is not easily opened¹, removed, or replaced¹ without signs of
34 tampering;

35 ¹**(2) except as provided in paragraph (3) of this subsection,**
36 **conceals** ¹**and**

37 (3) ²**regardless of whether the gift card is or is not enclosed in**
38 packaging,¹ all CVV number, pin number¹;

39 (3) displays an activation code, bar code, or other activation data
40 only if the packaging used is more secure than it otherwise would
41 be if the data were fully concealed; and

42 (4) includes a warning that states the following or uses language
43 substantially similar to the following: “Do not sell or purchase if
44 packaging has been broken or indicates tampering.” ¹**are either fully**
45 concealed or covered or, only if the gift card is enclosed in
46 packaging that is designed to make the gift card more secure than
47 full concealment or covering otherwise would, are partially

1 concealed or covered.¹】 regardless of whether the gift card is or is
2 not enclosed in packaging, all visible numbers such as a card
3 number, CVV number, or a PIN number that can be used for
4 balance inquiries or manual entry redemption are either fully
5 concealed or covered or otherwise made unavailable prior to sale or,
6 only if the gift card is enclosed in packaging that is designed to
7 make the gift card more secure than full concealment or covering
8 otherwise would, are partially concealed or covered.²

9 d. ¹【For the sale of a closed-loop gift card, the gift card shall
10 be enclosed in packaging that:

11 (1) conceals or covers, in a manner that is not easily removed or
12 replaced without signs of tampering, all numeric codes specific to
13 the redemption of the gift card; or

14 (2) if made more secure through partial concealment or covering
15 than full concealment or covering pursuant to paragraph (1) of this
16 subsection, partially conceals or covers, in a manner that is not
17 easily removed or replaced without signs of tampering, all numeric
18 codes specific to redemption of the gift card; and

19 (3) includes a warning that states the following or uses language
20 substantially similar to the following: “Do not sell or purchase if
21 packaging has been broken or indicates tampering.”

22 e. ¹【A retail mercantile establishment may ¹display or¹ sell ¹【an
23 open- or closed loop】 a¹ gift card that ¹【is not enclosed in secured
24 packaging pursuant to】 does not conform to the requirements of
25 paragraphs (2) and (3) of¹ subsection c. ¹【or d.】¹ of this section if:

26 (1) the gift card is a chip-enabled, numberless card that is
27 activated by a consumer after registering the card on the card
28 issuer’s website; ¹【or】¹

29 (2) the gift card is:

30 (a) sold exclusively by a retail mercantile establishment for use
31 only at the retail mercantile establishment or a group of affiliated
32 retail mercantile establishments for use at the retail mercantile
33 establishments of the affiliated establishments; and

34 (b) is secured in a physical location within the retail mercantile
35 establishment that is accessible only by an employee¹, or

36 (3) the gift card or its packaging:

37 (a) incorporates technology that is designed to prevent activation
38 if the gift card or its packaging has been subjected to tampering; or

39 (b) incorporates technology that is designed to detect and prevent
40 unauthorized redemption¹.

41 ¹【f.】e.¹ (1) When a third-party gift card reseller buys or sells
42 ¹【an open-loop】 a¹ gift card as part of a transaction occurring in
43 this State, the reseller shall record and, for at least three years,
44 maintain a copy of the following information as applicable:

45 (a) the date of the transaction;

46 (b) the name of the person who conducted the transaction;

47 (c) the name, age, and address of the seller of the gift card;

1 (d) the seller's and consumer's driver's license number or
2 identification card number;

3 (e) a description of the purchased gift card, including, but not
4 limited to, the retailer for which the gift card is intended for use and
5 the gift card number;

6 (f) the specific amount issued on the gift card;

7 (g) the transaction price;

8 (h) the signature of the consumer.

9 (2) The information recorded and maintained pursuant to this
10 section shall be chronologically written in ink or logged into a
11 secure database, software system, or other similar technology
12 platform.

13 (3) Except as provided in paragraph (4) of this subsection,
14 recorded information may not be destroyed, altered, or erased.

15 (4) A handwritten correction may be made to an entry of
16 information by drawing a line of ink through the entry in a manner
17 that retains legibility.

18 (5) Information recorded pursuant to this subsection shall be
19 open to inspection by any duly authorized law enforcement officer
20 in this State during the ordinary business hours of the third-party
21 gift card reseller or at other reasonable time.

22 f. A third-party gift card reseller, including an agent or
23 employee of the third-party gift card reseller may not:

24 (1) fail to make an entry of or falsify, destroy, or remove any
25 information required to be recorded and maintained pursuant to this
26 section;

27 (2) refuse to allow any duly authorized law enforcement officer
28 in this State to inspect a record of information or ²[open- or closed-
29 loop] ~~the~~² gift cards in the reseller's possession; or

30 (3) fail to maintain a record in pursuant to this section.

31 g. Upon ¹[the filing of an official report to] request of¹ a law
32 enforcement agency ¹[by any person alleging to be a victim]
33 conducting an investigation into allegations¹ of theft of one or more
34 ¹[open- or closed-loop]¹ gift cards ¹[with an aggregate value
35 exceed \$500, law enforcement may request that],¹ the issuer of the
36 gift cards or the issuer's agents ¹shall¹ preserve and provide law
37 enforcement ¹with¹ all relevant evidence ¹so requested¹.

38

39 ¹[12.] ²[11.¹ There is appropriated from the General Fund to
40 the Department of Law and Public Safety the sum of \$1,000,000 to
41 effectuate the provisions of this act.]²

42

43 ¹[13.] ²[12.¹] 11.² This act shall take effect immediately, except
44 that sections ²9 and² ¹10 ²[and 11]² shall remain inoperative until
45 October 1, 2025, but the Director of the Division of Consumer Affairs
46 may take such anticipatory action as may be necessary to effectuate
47 the provisions ²[of this act, and section¹ 7]² ¹[, 10, and 11]¹ ²of those

- 1 sections, and section 6² shall take effect on the 180th day after the date
- 2 of enactment.