

House Bill 1346 (COMMITTEE SUBSTITUTE)

By: Representatives O`Neal of the 146<sup>th</sup> and Talton of the 145<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to theft, so as to create the offense of organized retail theft; to provide for definitions;  
3 to provide for forfeiture; to provide for related matters; to repeal conflicting laws; and for  
4 other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft,  
8 is amended by adding a new Code section to read as follows:

9 "16-8-5.2.

10 (a) As used in this Code section, the term:

11 (1) 'Retail property' means any new article, product, commodity, item, or component  
12 intended to be sold in retail commerce.

13 (2) 'Retail property fence' means an individual or entity that buys retail property and  
14 knows or should have known that the retail property was stolen.

15 (3) 'Value' means the retail value of the item as advertised by the affected retail  
16 establishment, to include applicable taxes.

17 (b) A person commits the offense of organized retail theft when two or more persons are  
18 knowingly involved in theft of retail property from a retail establishment in quantities that  
19 would not normally be purchased for personal use or consumption, aggregated over a 180  
20 day period, with the intent to sell such retail property to a retail property fence or to place  
21 the stolen merchandise back into commerce for monetary or other gains. Whoever  
22 knowingly receives, possesses, conceals, stores, barter, sells, or disposes of retail property  
23 with the intent to distribute any retail property which has been taken or stolen in violation  
24 of this subsection with the intent to distribute the proceeds, or to otherwise promote,  
25 manage, carry on, or facilitate an offense described in this subsection, shall have committed  
26 the offense of organized retail theft.

1 (c)(1) It shall not be necessary in any prosecution under this Code section for the state  
2 to prove that any intended profit was actually realized. The trier of fact may infer that a  
3 particular scheme or course of conduct was undertaken for profit from all of the attending  
4 circumstances.

5 (2) It shall not be a defense to violating this Code section that the property was obtained  
6 by means other than through the commission of a theft offense if the property was  
7 explicitly represented to the accused as being obtained through the commission of a theft.

8 (d) Any property constituting proceeds derived from or realized through a violation of this  
9 Code section shall be subject to forfeiture to the State of Georgia except that no property  
10 of any owner shall be forfeited under this subsection, to the extent of the interest of such  
11 owner, by reason of an act or omission established by such owner to have been committed  
12 or omitted without knowledge or consent of such owner. The procedure for forfeiture and  
13 disposition of forfeited property under this subsection shall be as provided for under Code  
14 Section 16-13-49.

15 (e) Each violation of this Code section shall constitute a separate offense."

16 **SECTION 2.**

17 All laws and parts of laws in conflict with this Act are repealed.