

Senate Bill 382

By: Senators Mullis of the 53rd, Chance of the 16th and Jones of the 25th

AS PASSED SENATE

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 provide for the crime of retail theft; to provide for penalties; to
3 provide for related matters; to provide for an effective date and for applicability; to repeal
4 conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **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 "16-8-14.1.

10 (a) It shall be unlawful for a person to give a false or fictitious name or address or to give
11 the name or address of another person without that person's approval or permission for the
12 purpose of obtaining or attempting to obtain a refund from a business establishment for
13 merchandise.

14 (b) It shall be unlawful for a person to obtain or attempt to obtain a refund in the form of
15 cash, check, credit on a credit or debit card, a merchant gift card, or credit in any other
16 form from a merchant using a driver's license not issued to such person, a driver's license
17 containing false information, an identification card containing false information, an altered
18 identification card, or an identification card not issued to such person.

19 (c) A person who violates the provisions of subsection (b) of this Code section shall be
20 guilty of retail theft in the first degree and, upon conviction, shall:

21 (1) When the property which was the subject of the theft is \$500.00 or less in value, be
22 punished as for a misdemeanor; provided, however, that:

23 (A) Upon conviction of a second offense for retail theft, where the first offense is either
24 a felony or a misdemeanor, as defined by this Code section, in addition to or in lieu of
25 any imprisonment which might be imposed, the defendant shall be fined not less than
26 \$500.00, and the fine shall not be suspended or probated;

27 (B) Upon conviction of a third offense for retail theft, where the first two offenses are
28 either felonies or misdemeanors, or a combination of a felony and a misdemeanor, as
29 defined by this Code section, in addition to or in lieu of any fine which might be
30 imposed, the defendant shall be punished by imprisonment for not less than 30 days or
31 confinement in a 'special alternative incarceration–probation boot camp,' probation
32 detention center, diversion center, or other community correctional facility of the
33 Department of Corrections for a period of 120 days or shall be sentenced to monitored
34 house arrest for a period of 120 days and, in addition to either such types of
35 confinement, may be required to undergo psychological evaluation and treatment to be
36 paid for by the defendant; and such sentence of imprisonment or confinement shall not
37 be suspended, probated, deferred, or withheld; and

38 (C) Upon conviction of a fourth or subsequent offense for retail theft, where the prior
39 convictions are either felonies or misdemeanors, or any combination of felonies and
40 misdemeanors, as defined by this Code section, the defendant commits a felony and
41 shall be punished by imprisonment for not less than one nor more than ten years; and
42 the first year of such sentence shall not be suspended, probated, deferred, or withheld;

43 (2) When the property which was the subject of the theft exceeds \$500.00 in value, be
44 guilty of a felony and shall be punished by imprisonment for not less than one nor more
45 than ten years;

46 (3) When the property which was the subject of the theft is taken from three separate
47 stores or retail establishments within one county during a period of seven days or less and
48 when the aggregate value of the property which was the subject of each theft exceeds
49 \$500.00 in value, be guilty of a felony and shall be punished by imprisonment for not less
50 than one nor more than ten year; and

51 (4) When the property which was the subject of the theft is taken during a period of
52 180 days and when the aggregate value of the property which was the subject of each
53 theft exceeds \$500.00 in value, be guilty of a felony and shall be punished by
54 imprisonment for not less than one nor more than ten years.

55 (d) A person who violates the provisions of subsection (a) of this Code section shall be
56 guilty of retail theft in the second degree and, upon conviction, shall be guilty of a
57 misdemeanor.

58 (e) In all cases involving retail theft, the term 'value' means the actual retail price of the
59 property at the time and place of the offense. The unaltered price tag or other marking on
60 property, or duly identified photographs thereof, shall be prima-facie evidence of value and
61 ownership of the property.

62 (f) Subsections (c) and (d) of this Code section shall in no way affect the authority of a
63 sentencing judge to provide for a sentence to be served on weekends or during the

64 nonworking hours of the defendant as provided in Code Section 17-10-3, relative to
65 punishment for misdemeanors.
66 (g) The municipal court of each municipality in this state is granted jurisdiction to try and
67 dispose of cases in which a person is charged with a misdemeanor offense under this Code
68 section if the offense occurred within the corporate limits of such municipality. The
69 jurisdiction of each such court shall be concurrent with the jurisdiction of any other courts
70 within the county having jurisdiction to try and dispose of such cases."

71 **SECTION 2.**

72 This Act shall become effective on July 1, 2014, and shall apply to all conduct occurring on
73 or after such date.

74 **SECTION 3.**

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