

CHAPTER 277

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 06-1380

BY REPRESENTATIVE(S) Riesberg, Garcia, Madden, Marshall, Merrifield, and Paccione;
also SENATOR(S) Veiga, Entz, Grossman, Kester, Teck, and Wiens.

AN ACT

CONCERNING THE DEVELOPMENT OF MEASURES TO REDUCE THE THEFT OF RETAIL GOODS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 13 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

18-13-114.5. Proof of ownership required - penalty - definitions. (1) A PERSON WHO IS A SECONDHAND DEALER OR A DEALER AND RETAILER OF NEW GOODS AND WHO SELLS GOODS AT A FLEA MARKET OR SIMILAR FACILITY SHALL NOT SELL OR OFFER FOR SALE ANY OF THE FOLLOWING PROPERTY ITEMS WITHOUT PROOF OF OWNERSHIP:

- (a) BABY FOOD OF A TYPE USUALLY CONSUMED BY CHILDREN UNDER THREE YEARS OF AGE;
- (b) COSMETICS;
- (c) DEVICES;
- (d) DRUGS;
- (e) INFANT FORMULA;
- (f) BATTERIES; OR
- (g) RAZOR BLADES.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(2) A PERSON REQUIRED TO HAVE PROOF OF OWNERSHIP UNDER SUBSECTION (1) OF THIS SECTION SHALL MAKE SUCH PROOF OF OWNERSHIP AVAILABLE TO ANY PEACE OFFICER FOR INSPECTION AT ANY REASONABLE TIME.

(3) FOR PURPOSES OF THIS SECTION:

(a) "COSMETIC" MEANS AN ARTICLE, OR ITS COMPONENTS, INTENDED TO BE RUBBED, Poured, SPRINKLED, OR SPRAYED ON, INTRODUCED INTO, OR OTHERWISE APPLIED TO, THE HUMAN BODY, OR ANY PART OF THE HUMAN BODY, FOR CLEANSING, BEAUTIFYING, PROMOTING ATTRACTIVENESS, OR ALTERING APPEARANCE. "COSMETIC" DOES NOT INCLUDE SOAP.

(b) "DEVICE" MEANS AN INSTRUMENT, APPARATUS, IMPLEMENT, MACHINE, CONTRIVANCE, IMPLANT, IN VITRO REAGENT, OR OTHER SIMILAR OR RELATED ARTICLE, INCLUDING A COMPONENT, PART, OR ACCESSORY, THAT IS:

(I) RECOGNIZED IN THE OFFICIAL NATIONAL FORMULARY OR THE UNITED STATES PHARMACOPOEIA, OR ANY SUPPLEMENT TO THEM;

(II) INTENDED FOR USE IN THE DIAGNOSIS OF DISEASE OR OTHER CONDITION, OR IN THE CURE, MITIGATION, TREATMENT, OR PREVENTION OF DISEASE IN HUMANS OR ANIMALS; OR

(III) INTENDED TO AFFECT THE STRUCTURE OR ANY FUNCTION OF THE BODY OF HUMANS OR ANIMALS AND THAT DOES NOT ACHIEVE ANY OF ITS PRINCIPAL INTENDED PURPOSES THROUGH CHEMICAL ACTION WITHIN OR ON THE BODY OF HUMANS OR ANIMALS AND THAT IS NOT DEPENDENT UPON BEING METABOLIZED FOR THE ACHIEVEMENT OF ANY OF ITS PRINCIPAL INTENDED PURPOSES.

(c) "DRUG" MEANS:

(I) ANY ARTICLE RECOGNIZED IN AN OFFICIAL COMPENDIUM OF DRUGS;

(II) AN ARTICLE USED OR INTENDED FOR USE IN THE DIAGNOSIS, CURE, MITIGATION, TREATMENT, OR PREVENTION OF DISEASE IN HUMANS OR ANIMALS;

(III) AN ARTICLE, OTHER THAN FOOD, THAT IS USED OR INTENDED TO AFFECT THE STRUCTURE OR ANY FUNCTION OF THE BODY OF HUMANS OR ANIMALS; OR

(IV) AN ARTICLE INTENDED FOR USE AS A COMPONENT OF AN ARTICLE SPECIFIED IN SUBPARAGRAPH (I), (II), OR (III) OF THIS PARAGRAPH (c).

(d) "INFANT FORMULA" MEANS A FOOD THAT PURPORTS TO BE OR IS REPRESENTED FOR SPECIAL DIETARY USE SOLELY AS A FOOD FOR INFANTS BY REASON OF ITS SIMULATION OF HUMAN MILK OR ITS SUITABILITY AS A COMPLETE OR PARTIAL SUBSTITUTE FOR HUMAN MILK.

(e) "PROOF OF OWNERSHIP" SHALL INCLUDE:

(I) THE NAME, ADDRESS, TELEPHONE NUMBER, AND SIGNATURE OF THE SELLER OR THE SELLER'S AUTHORIZED REPRESENTATIVE;

- (II) THE NAME AND ADDRESS OF THE BUYER OR CONSIGNEE IF NOT SOLD; AND
- (III) A DESCRIPTION AND QUANTITY OF THE PRODUCT.
- (4) A VIOLATION OF THIS SECTION IS A CLASS 3 MISDEMEANOR.

SECTION 2. Part 4 of article 4 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

18-4-411.5. Interagency task force on organized retail theft - legislative declaration - repeal. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS NECESSARY AND IN THE BEST INTERESTS OF THE CITIZENS OF COLORADO TO:

(a) FACILITATE COLORADO'S COMMUNICATION WITH THE FEDERAL ORGANIZED RETAIL THEFT TASK FORCE CREATED WITHIN THE FEDERAL BUREAU OF INVESTIGATION;

(b) SECURE FUNDING, IF MADE AVAILABLE BY THE FEDERAL GOVERNMENT, TO COLORADO'S LAW ENFORCEMENT AGENCIES THAT COMBAT ORGANIZED RETAIL THEFT; AND

(c) INVOLVE THE GENERAL ASSEMBLY, LAW ENFORCEMENT AGENCIES, DISTRICT ATTORNEYS, AND RETAIL BUSINESSES IN COLORADO IN DETERMINING THE MOST APPROPRIATE STRATEGIES TO HELP DETER AND REDUCE ORGANIZED RETAIL THEFT.

(2) THERE IS HEREBY CREATED AN INTERAGENCY TASK FORCE ON ORGANIZED RETAIL THEFT, REFERRED TO IN THIS SECTION AS THE "TASK FORCE". THE TASK FORCE SHALL MEET REGULARLY TO INVESTIGATE METHODS OF EFFECTIVELY PREVENTING ORGANIZED RETAIL THEFT AND DEVELOP RECOMMENDATIONS FOR THE STATE OF COLORADO REGARDING THE ENHANCEMENT OF LAW ENFORCEMENT EFFORTS AND EDUCATION CONCERNING ORGANIZED RETAIL THEFT.

(3) (a) THE TASK FORCE SHALL CONSIST OF NINE MEMBERS TO BE APPOINTED AS FOLLOWS:

(I) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF COUNTY SHERIFFS TO BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES;

(II) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF CHIEFS OF POLICE TO BE APPOINTED BY THE PRESIDENT OF THE SENATE;

(III) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION THAT REPRESENTS COLORADO'S ELECTED COUNTY COMMISSIONERS TO BE APPOINTED BY THE GOVERNOR;

(IV) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION THAT REPRESENTS COLORADO'S ELECTED CITY COUNCIL PERSONS TO BE APPOINTED BY THE GOVERNOR;

(V) A REPRESENTATIVE OF A STATEWIDE ORGANIZATION OF DISTRICT ATTORNEYS TO BE APPOINTED BY THE PRESIDENT OF THE SENATE; AND

(VI) FOUR PERSONS ACTIVELY ENGAGED IN RETAIL BUSINESS IN COLORADO, TWO OF WHOM SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, ONE OF WHOM SHALL BE APPOINTED BY THE PRESIDENT OF THE SENATE, AND ONE OF WHOM SHALL BE APPOINTED BY THE GOVERNOR.

(b) MEMBERS OF THE TASK FORCE SHALL NOT BE COMPENSATED OR REIMBURSED FOR THEIR EXPENSES INCURRED IN ATTENDING MEETINGS OF THE TASK FORCE.

(4) THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND THE GOVERNOR SHALL JOINTLY AGREE ON AND SELECT A CHAIRPERSON FROM THE APPOINTED PERSONS DESCRIBED IN SUBSECTION (3) OF THIS SECTION, AND SUCH CHAIRPERSON SHALL CALL THE FIRST MEETING OF THE TASK FORCE.

(5) THE TASK FORCE SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, ON OR BEFORE JANUARY 31, 2007.

(6) THIS SECTION IS REPEALED, EFFECTIVE FEBRUARY 1, 2007.

SECTION 3. Effective date - applicability. This act shall take effect July 1, 2006, and shall apply to offenses committed on or after said date.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 26, 2006