

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Business, Labor, & Technology.

SB19-014 be amended as follows:

1 Amend printed bill, page 2, strike lines 2 through 18.

2 Page 3, strike lines 1 through 4 and substitute:

3 **"SECTION 1.** In Colorado Revised Statutes, **add** 18-4-421 as
4 follows:

5 **18-4-421. Organized retail theft.** (1) A PERSON COMMITS
6 ORGANIZED RETAIL THEFT IF HE OR SHE:

7 (a) ACTS IN CONCERT WITH ONE OR MORE PERSONS TO STEAL
8 MERCANDISE FROM ONE OR MORE MERCHANTS' PREMISES OR ONLINE
9 MARKETPLACES WITH THE PURPOSE OF RESELLING OR OTHERWISE
10 RE-ENTERING THE MERCANDISE IN COMMERCE, INCLUDING CONVEYING
11 THE MERCANDISE TO A MERCHANT IN EXCHANGE FOR ANYTHING OF
12 VALUE;

13 (b) ACTS IN CONCERT WITH TWO OR MORE PERSONS TO RECEIVE,
14 PURCHASE, OR POSSESS MERCANDISE DESCRIBED IN SUBSECTION (1)(a)
15 OF THIS SECTION, KNOWING OR BELIEVING IT TO HAVE BEEN STOLEN;

16 (c) ACTS AS AN AGENT OF ANOTHER INDIVIDUAL OR GROUP OF
17 INDIVIDUALS TO STEAL MERCANDISE FROM ONE OR MORE MERCHANTS'
18 PREMISES OR ONLINE MARKETPLACES AS PART OF AN ORGANIZED PLAN TO
19 COMMIT THEFT; OR

20 (d) RECRUITS, COORDINATES, ORGANIZES, SUPERVISES, DIRECTS,
21 MANAGES, OR FINANCES ANOTHER TO UNDERTAKE ANY OF THE ACTS
22 DESCRIBED IN SUBSECTION (1)(a) OR (1)(b) OF THIS SECTION OR ANY
23 OTHER STATUTE DEFINING THEFT.

24 (2) FOR THE PURPOSE OF DETERMINING WHETHER THE DEFENDANT
25 ACTED IN CONCERT WITH ANOTHER PERSON OR PERSONS IN ANY
26 PROCEEDING, THE TRIER OF FACT MAY CONSIDER ANY COMPETENT
27 EVIDENCE, INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING:

28 (a) THAT THE DEFENDANT HAS PREVIOUSLY ACTED IN CONCERT
29 WITH ANOTHER PERSON OR PERSONS IN COMMITTING ACTS CONSTITUTING
30 THEFT, OR ANY RELATED OFFENSE, INCLUDING ANY CONDUCT THAT
31 OCCURRED IN COUNTIES OTHER THAN THE COUNTY OF THE CURRENT
32 OFFENSE, IF RELEVANT TO DEMONSTRATE A FACT OTHER THAN THE
33 DEFENDANT'S DISPOSITION TO COMMIT THE ACT;

34 (b) THAT THE DEFENDANT USED OR POSSESSED AN ARTIFICE,
35 INSTRUMENT, CONTAINER, DEVICE, OR OTHER ARTICLE CAPABLE OF
36 FACILITATING THE REMOVAL OF MERCANDISE FROM A RETAIL
37 ESTABLISHMENT WITHOUT PAYING THE PURCHASE PRICE, AND USE OF THE
38 ARTIFICE, INSTRUMENT, CONTAINER, OR DEVICE OR OTHER ARTICLE IS
39 PART OF AN ORGANIZED PLAN TO COMMIT THEFT; OR

40 (c) THAT THE PROPERTY INVOLVED IN THE OFFENSE IS OF A TYPE

1 OR QUANTITY THAT WOULD NOT NORMALLY BE PURCHASED FOR PERSONAL
2 USE OR CONSUMPTION AND THE PROPERTY IS INTENDED FOR RESALE.

3 (3) (a) EXCEPT AS PROVIDED IN SUBSECTION (3)(b) OF THIS
4 SECTION, ORGANIZED RETAIL THEFT IS A CLASS 1 MISDEMEANOR;

5 (b) IF A PERSON WHO HAS PREVIOUSLY BEEN CONVICTED OF A
6 VIOLATION OF THIS SECTION HAS SUBSEQUENTLY VIOLATED SUBSECTION
7 (1) OF THIS SECTION ON THREE OR MORE SEPARATE OCCASIONS WITHIN A
8 SIX-MONTH PERIOD AND THE AGGREGATED, FULL VALUE OF MERCHANDISE
9 STOLEN, RECEIVED, PURCHASED, OR POSSESSED WITHIN THAT SIX-MONTH
10 PERIOD MERCHANDISE IS:

11 (I) TWO THOUSAND DOLLARS OR MORE BUT LESS THAN FIVE
12 THOUSAND DOLLARS, ORGANIZED RETAIL THEFT IS A CLASS 6 FELONY;

13 (II) FIVE THOUSAND DOLLARS OR MORE BUT LESS THAN TWENTY
14 THOUSAND DOLLARS, ORGANIZED RETAIL THEFT IS A CLASS 5 FELONY;

15 (III) TWENTY THOUSAND DOLLARS OR MORE BUT LESS THAN ONE
16 HUNDRED THOUSAND DOLLARS, ORGANIZED RETAIL THEFT IS A CLASS 4
17 FELONY;

18 (IV) ONE HUNDRED THOUSAND DOLLARS OR MORE BUT LESS THAN
19 ONE MILLION DOLLARS, ORGANIZED RETAIL THEFT IS A CLASS 3 FELONY;
20 AND

21 (V) ONE MILLION DOLLARS OR MORE, ORGANIZED RETAIL THEFT IS
22 A CLASS 2 FELONY.

23 (4) UPON A CONVICTION PURSUANT TO THIS SECTION, THE COURT
24 SHALL CONSIDER ORDERING, AS A CONDITION OF PROBATION IF ORDERED,
25 THAT THE DEFENDANT STAY AWAY FROM RETAIL ESTABLISHMENTS WITH
26 A REASONABLE NEXUS TO THE CRIME COMMITTED.

27 (5) IN A PROSECUTION UNDER THIS SECTION, THE PROSECUTOR IS
28 NOT REQUIRED TO CHARGE ANY OTHER CO-PARTICIPANT OF THE
29 ORGANIZED RETAIL THEFT.

30 (6) NOTHING IN THIS SECTION PRECLUDES PUNISHMENT PURSUANT
31 TO ANY OTHER SECTION OF LAW.".

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