

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 26-1138

BY REPRESENTATIVE(S) Woog and Espenoza, Caldwell, Clifford, Duran, Flanell, Gonzalez R., Joseph, Rutinel, Rydin, Soper, McCluskie; also SENATOR(S) Rodriguez and Kirkmeyer, Amabile, Ball, Bridges, Bright, Carson, Cutter, Danielson, Daugherty, Exum, Frizell, Lindstedt, Liston, Marchman, Mullica, Pelton B., Pelton R., Roberts, Snyder, Wallace, Coleman.

CONCERNING MEASURES TO PREVENT ORGANIZED RETAIL THEFT, AND, IN CONNECTION THEREWITH, CREATING THE RETAIL THEFT PREVENTION ADVISORY BOARD AND THE RETAIL THEFT PREVENTION GRANT PROGRAM IN THE DIVISION OF CRIMINAL JUSTICE.

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

SECTION 1. Legislative declaration. (1) The general assembly finds that:

(a) Organized felony-level retail theft, which is retail theft of at least \$2,000, and gift card fraud pose a growing threat to public safety, small businesses, large retailers, supply chains, and state and local tax revenues;

(b) Felony-level retail theft and gift card fraud increasingly involve

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

organized criminal enterprises operating across jurisdictional boundaries;

(c) Colorado has successfully reduced auto theft through a coordinated, data-driven, grant-based approach administered by the Colorado auto theft prevention authority in the department of public safety; and

(d) A similar model, adapted to felony-level retail theft and housed within the division of criminal justice in the department of public safety, will enhance statewide coordination, prosecution, prevention, and enforcement.

(2) The general assembly declares that the purposes of this act are to:

(a) Establish a felony-level retail theft prevention program in the division of criminal justice;

(b) Provide grant funding and technical assistance to local governments, law enforcement agencies, prosecutors, and regional task forces;

(c) Improve data collection, analysis, and interagency coordination related to felony-level retail theft and gift card fraud; and

(d) Support prevention, investigation, and prosecution strategies targeting organized felony-level retail theft and gift card fraud.

SECTION 2. In Colorado Revised Statutes, **add** 24-33.5-540 as follows:

24-33.5-540. Retail theft prevention advisory board - grant program - rules- report - definitions - repeal.

(1) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ADVISORY BOARD" MEANS THE RETAIL THEFT PREVENTION ADVISORY BOARD CREATED IN SUBSECTION (2) OF THIS SECTION.

(b) "COLORADO RETAIL THEFT TASK FORCE" MEANS THE STATEWIDE TASK FORCE FORMED BY THE ATTORNEY GENERAL TO PROVIDE GREATER COORDINATION AMONG LAW ENFORCEMENT TO IDENTIFY, DISRUPT, AND PROSECUTE ORGANIZED CRIMINAL RINGS THAT STEAL GOODS FROM RETAILERS.

(c) "ELIGIBLE ENTITY" MEANS A LOCAL OR STATE LAW ENFORCEMENT AGENCY, DISTRICT ATTORNEY'S OFFICE, MULTIJURISDICTIONAL OR REGIONAL TASK FORCE, OR TRIBAL LAW ENFORCEMENT AGENCY.

(d) "FELONY-LEVEL RETAIL THEFT" MEANS A FELONY-LEVEL THEFT DESCRIBED IN SECTION 18-4-401 (2)(f) TO (2)(j) COMMITTED AGAINST A RETAILER OF GOODS.

(e) "GRANT PROGRAM" MEANS THE RETAIL THEFT PREVENTION GRANT PROGRAM CREATED IN SUBSECTION (5) OF THIS SECTION.

(2) Advisory board.

(a) THERE IS CREATED THE RETAIL THEFT PREVENTION ADVISORY BOARD IN THE DIVISION, WHICH CONSISTS OF THE FOLLOWING MEMBERS:

(I) THE ATTORNEY GENERAL, OR THE ATTORNEY GENERAL'S DESIGNEE;

(II) ONE MEMBER WHO REPRESENTS THE COLORADO RETAIL THEFT TASK FORCE, APPOINTED BY THE TASK FORCE;

(III) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY, OR THE EXECUTIVE DIRECTOR'S DESIGNEE;

(IV) TWO MEMBERS WHO REPRESENT LOCAL LAW ENFORCEMENT, ONE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ONE APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES;

(V) ONE DISTRICT ATTORNEY, OR THE DISTRICT ATTORNEY'S DESIGNEE, APPOINTED BY THE EXECUTIVE DIRECTOR OF THE COLORADO DISTRICT ATTORNEYS' COUNCIL;

(VI) THE DIRECTOR OF THE DIVISION OF CRIMINAL JUSTICE;

(VII) ONE PUBLIC DEFENDER, OR THE PUBLIC DEFENDER'S DESIGNEE, APPOINTED BY THE STATE PUBLIC DEFENDER;

(VIII) ONE MEMBER WHO REPRESENTS LOCAL GOVERNMENT, APPOINTED BY THE MAJORITY LEADER OF THE HOUSE OF REPRESENTATIVES; AND

(IX) THREE NONVOTING ADVISORY MEMBERS, AS FOLLOWS:

(A) ONE NONVOTING MEMBER FROM A LARGE RETAILER WITH MORE THAN FIVE HUNDRED EMPLOYEES, APPOINTED BY THE PRESIDENT OF THE SENATE;

(B) ONE NONVOTING MEMBER FROM A SMALL RETAILER WITH FEWER THAN TWO HUNDRED FIFTY EMPLOYEES, APPOINTED BY THE SENATE MAJORITY LEADER; AND

(C) ONE NONVOTING MEMBER FROM A NONPROFIT RETAILER, APPOINTED BY THE SENATE MINORITY LEADER.

(b) ADVISORY BOARD APPOINTMENTS MUST BE MADE NO LATER THAN SEPTEMBER 1, 2026. THE ADVISORY BOARD SHALL SELECT A CHAIR AND THE CHAIR SHALL CALL THE FIRST MEETING NO LATER THAN NOVEMBER 1, 2026. THE ADVISORY BOARD SHALL MEET AT ANY TIME THE BOARD DEEMS NECESSARY.

(3) **Duties and responsibilities.** THE ADVISORY BOARD HAS THE FOLLOWING DUTIES AND RESPONSIBILITIES:

(a) TO DEVELOP GRANT APPLICATION DEADLINES, DATES BY WHICH GRANTS MUST BE AWARDED, CRITERIA FOR GRANT AWARDS, AND THE FREQUENCY OF CONSIDERATION OF GRANT APPLICATIONS;

(b) TO REVIEW GRANT APPLICATIONS AND AWARD GRANTS PURSUANT TO SUBSECTION (4) OF THIS SECTION;

(c) TO COLLECT AND ANALYZE DATA RELATED TO ORGANIZED FELONY-LEVEL RETAIL THEFT AND GIFT CARD FRAUD TRENDS, LOSSES,

PROSECUTIONS, AND OUTCOMES IN COLORADO; AND

(d) TO DEVELOP POLICY RECOMMENDATIONS IN COORDINATION WITH STATE AND FEDERAL PARTNERS, INCLUDING THE DEPARTMENT OF PUBLIC SAFETY, DISTRICT ATTORNEYS, LOCAL GOVERNMENTS, AND FEDERAL LAW ENFORCEMENT AGENCIES, ON HOW TO COMBAT FELONY-LEVEL RETAIL THEFT AND GIFT CARD FRAUD.

(4) Grant program.

(a) THE RETAIL THEFT PREVENTION GRANT PROGRAM IS CREATED IN THE DIVISION. GRANT AWARDS MAY BE USED FOR THE FOLLOWING PURPOSES:

(I) TO INVESTIGATE AND PROSECUTE ORGANIZED FELONY-LEVEL RETAIL THEFT OR GIFT CARD FRAUD;

(II) TO DEVELOP OR INVEST IN TECHNOLOGY, DATA-SHARING SYSTEMS, AND ANALYTICS TOOLS TO ANALYZE FELONY-LEVEL RETAIL THEFT AND GIFT CARD FRAUD METRICS;

(III) TO PROVIDE TRAINING AND TECHNICAL ASSISTANCE TO RETAILERS OR LAW ENFORCEMENT AGENCIES; AND

(IV) TO DEVELOP PREVENTION AND DETERRENCE INITIATIVES SPECIFIC TO FELONY-LEVEL RETAIL THEFT AND GIFT CARD FRAUD.

(b) THE ADVISORY BOARD SHALL ADMINISTER THE GRANT PROGRAM AND SHALL AWARD GRANTS AS PROVIDED IN THIS SUBSECTION (4). GRANTS MUST BE PAID OUT OF MONEY APPROPRIATED PURSUANT TO SECTION 24-33.5-117 (7) OR FROM GIFTS, GRANTS, OR DONATIONS RECEIVED PURSUANT TO SUBSECTION (4)(e) OF THIS SECTION.

(c) TO RECEIVE A GRANT, AN ELIGIBLE ENTITY MUST SUBMIT AN APPLICATION TO THE ADVISORY BOARD IN ACCORDANCE WITH RULES ADOPTED BY THE DIVISION IN COLLABORATION WITH THE COLORADO RETAIL THEFT TASK FORCE AND WITHIN THE DEADLINES ESTABLISHED BY THE ADVISORY BOARD.

(d) THE ADVISORY BOARD SHALL REVIEW THE APPLICATIONS

RECEIVED PURSUANT TO THIS SUBSECTION (4).

(e) THE ATTORNEY GENERAL MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSE OF AWARDING GRANTS PURSUANT TO THIS SECTION.

(5) THE DIVISION MAY ENTER INTO AN INTERGOVERNMENTAL OPERATING AGREEMENT WITH THE ATTORNEY GENERAL'S OFFICE FOR THE ADVISORY BOARD AND THE COLORADO RETAIL THEFT TASK FORCE TO SHARE RESOURCES AND COORDINATE ACTIVITIES RELATED TO REDUCING ORGANIZED FELONY-LEVEL THEFT IN THE STATE.

(6) **Report.** BEGINNING JANUARY 2028, AND EACH JANUARY THEREAFTER, THE DIVISION SHALL INCLUDE, AS PART OF ITS PRESENTATION DURING ITS "SMART ACT" HEARING REQUIRED BY SECTION 2-7-203, THE FOLLOWING INFORMATION:

(a) THE GRANT RECIPIENTS AND AMOUNT OF EACH GRANT;

(b) OUTCOMES AND PERFORMANCE METRICS REPORTED BY GRANT RECIPIENTS;

(c) THE NUMBER OF CRIMINAL CASES INITIATED FOR ORGANIZED FELONY-LEVEL RETAIL THEFT AS REPORTED BY DISTRICT ATTORNEYS AND THE ATTORNEY GENERAL'S OFFICE, INCLUDING THE AMOUNT OF MONEY SOUGHT IN EACH CASE; AND

(d) THE OUTCOME OF EACH CASE INITIATED FOR ORGANIZED FELONY-LEVEL RETAIL THEFT.

(7) THIS SECTION IS REPEALED, EFFECTIVE NOVEMBER 1, 2029.

SECTION 3. In Colorado Revised Statutes, 24-33.5-117, **amend** (7) and (9) as follows:

24-33.5-117. Crime prevention through safer streets grant program - created - committee - reports - repeal.

(7) (a) The general assembly shall appropriate ten million three hundred thousand dollars in fiscal year 2022-23 from the general fund for

the grant program AND THE RETAIL THEFT PREVENTION GRANT PROGRAM CREATED IN SECTION 24-33.5-540. Any unexpended money remaining at the end of ~~the 2022-23~~ A state fiscal year from this appropriation may be used by the department until fully expended without further appropriation and must not be used for any other purpose other than the purposes set forth in this section AND SECTION 24-33.5-540.

(b) ON JULY 1, 2027, TWO HUNDRED THOUSAND DOLLARS OF THE UNEXPENDED AND UNENCUMBERED MONEY REMAINING AT THE END OF THE 2026-27 STATE FISCAL YEAR FROM THE APPROPRIATION MADE PURSUANT TO SUBSECTION (7)(a) OF THIS SECTION REVERTS TO THE GENERAL FUND AND IS NOT AVAILABLE FOR FURTHER EXPENDITURE BY THE DEPARTMENT.

(9) This section is repealed, effective ~~July 1, 2027~~ NOVEMBER 1, 2029.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO