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COMMITTEE STATEMENT:	ASSEMBLY:	Yes Public Safety & Preparedness Judiciary Appropriations
	SENATE:	No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No	
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GOVERNOR'S PRESS RELEASE ON SIGNING:	Yes
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FOLLOWING WERE PRINTED:

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REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	Yes

Jelani Gibson - For The Star-Ledger, 'State toughens penalties for organized retail theft rings The changes includenew rules for gift cards sold in New Jersey stores.', *Star-Ledger, The* (online), 4 Apr 2025 003<<https://infoweb.newsbank.com/apps/news/document-view?p=NewsBank&docref=news/19FBE6CDF1DBD6F8>>

Kimberly Redmond, 'New NJ law targets organized retail theft', *NJBIZ* (online), 2 Apr 2025<<https://infoweb.newsbank.com/apps/news/document-view?p=NewsBank&docref=news/19FD3239C72E0340>>

CL/MMcB

§2
C.2C:20-7.3
§5
C.2C:20-11.3
§6
C.52:17B-4.13
§10
C.56:8-110.3
§11
Note to §§6,9,10

P.L. 2025, CHAPTER 39, *approved April 1, 2025*
Senate, No. 3587 (*First Reprint*)

1 AN ACT concerning retail theft, amending and supplementing
2 various parts of the statutory law, and making an appropriation.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 7 of P.L.1981, c.167 (C.2C:20-7.1) is amended to
8 read as follows:

9 7. Fencing. a. Possession of altered property. Any dealer in
10 property who knew or should have known that the identifying
11 features such as serial numbers and permanently affixed labels of
12 property in his possession have been removed or altered without the
13 consent of the manufacturer is guilty of possession of altered
14 property. It is a defense to a prosecution under this subsection that
15 a person lawfully possesses the usual indicia of ownership in
16 addition to mere possession.

17 b. (1) Dealing in stolen property. A person is guilty of dealing in
18 stolen property if he traffics in, or initiates, organizes, plans,
19 finances, directs, manages or supervises trafficking in stolen
20 property, including through the use of an online platform via any
21 electronic device or through a social media site. This paragraph
22 shall not apply to dealing in stolen property consisting of a
23 domestic companion animal, addressed in paragraph (2) of this
24 subsection.

25 (2) Dealing in stolen domestic companion animals. A person is
26 guilty of dealing in stolen domestic companion animals if he
27 trafficks in, or initiates, organizes, plans, finances, directs, manages
28 or supervises trafficking in stolen property consisting of a domestic
29 companion animal.

30 c. (1) For any violation of this section, other than dealing in
31 stolen domestic companion animals, the value of the property

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SJU committee amendments adopted February 20, 2025.

1 involved in the violation shall be determined by the trier of fact for
2 the purpose of determining the grade of the offense, and the value
3 of the property involved in the violation may be aggregated in
4 determining the grade of the offense where the acts or conduct
5 constituting a violation were committed pursuant to one scheme or
6 course of conduct, whether from the same person or several
7 persons.

8 (2) A violation of this section for dealing in stolen domestic
9 companion animals constitutes a crime of the third degree.

10 d. It is an affirmative defense to a prosecution under this
11 section that the actor:

12 (1) Was unaware that the property or service was that of
13 another;

14 (2) Acted under an honest claim of right to the property or
15 service involved or that he had a right to acquire or dispose of it as
16 he did.

17 e. In addition to the presumptions contained in subsection b. of
18 N.J.S.2C:20-7, the following presumptions are available in the
19 prosecution for a fencing offense:

20 (1) Proof of the purchase or sale of property at a price
21 substantially below its fair market value, unless satisfactorily
22 explained, gives rise to an inference that the person buying or
23 selling the property knew that it had been stolen;

24 (2) Proof of the purchase or sale of property by a dealer in that
25 property, out of the regular course of business, or without the usual
26 indicia of ownership other than mere possession, or the property or
27 the job lot of which it is a part was bought, received, possessed or
28 controlled in broken succession of title, so that it cannot be traced,
29 by appropriate documents, in unbroken succession to the
30 manufacturer, in all cases where the regular course of business
31 reasonably indicates records of purchase, transfer or sale, unless
32 satisfactorily explained, gives rise to an inference that the person
33 buying or selling the property knew that it had been stolen; and

34 (3) Proof that a person buying or selling property of the sort
35 received obtained such property without having ascertained by
36 reasonable inquiry that the person from whom he obtained it had a
37 legal right to possess or control it gives rise to an inference that
38 such person knew that it had been stolen.

39 (cf: P.L.2017, c.156, s.1)

40

41 2. (New section) a. ¹As used in P.L. , c. (C.) (pending
42 before the Legislature as this bill):

43 “Online platform” means any public-facing Internet website,
44 Internet web application, or computer or mobile application,
45 including a social networking website or publication.

46 “Sale” means any sale, transfer, exchange, barter, or offer for
47 sale and distribution, in any manner or by any means whatsoever,
48 including, but not limited to, via an online platform.

1 b.¹ A person is guilty of fostering the sale of stolen property, a
2 disorderly persons offense, if the person ¹【:

3 (1) hosts¹ , acting alone or in concert with another person or
4 persons,¹ advertises ¹【,】¹ or otherwise assists ¹ , by any means,
5 including through personal contact or through the use of an online
6 platform or any other communications channel or medium,¹ in the
7 sale of ¹【stolen goods, including through an online platform; and

8 (2) knows or reasonably should know that the property was
9 stolen. The requisite knowledge is presumed in the case of a person
10 who undertook a substantial and unjustifiable risk that the persons
11 actions would result in the sale of stolen property】 property of
12 another knowing that it has been stolen or reasonably believing that
13 it is stolen¹.

14 ¹【b. As defined in this act:

15 “Online platform” means any public-facing Internet website,
16 Internet web application, or computer or mobile application,
17 including a social networking website or publication.

18 “Sale” means any sale, transfer, exchange, barter, or offer for
19 sale and distribution, in any manner or by any means whatsoever,
20 including, but not limited to, via an online platform.

21 “Stolen property” shall have the same meaning as defined
22 pursuant to N.J.S.2C:20-1.】

23 c. The following presumptions are available in the prosecution
24 of an offense under this section of fostering the sale of stolen
25 property:

26 (1) Proof of the property being advertised for sale at a price
27 substantially below its fair market value, unless satisfactorily
28 explained, gives rise to an inference that the person advertising or
29 otherwise assisting in the sale of the property knew that it is stolen
30 or reasonably believed that the property is stolen; and

31 (2) Proof that a person advertised or otherwise assisted in the
32 sale of the property without having ascertained by reasonable
33 inquiry that the person offering the property for sale had a legal
34 right to possess or control it gives rise to an inference that such
35 person knew that it is stolen or reasonably believed that it is stolen.

36 d. Nothing in this section shall be construed to preclude or
37 limit the prosecution or conviction of any person for any other
38 crime or offense.¹

39

40 3. N.J.S.2C:12-1 is amended as follows:

41 2C:12-1. Assault. a. Simple assault. A person is guilty of
42 assault if the person:

43 (1) Attempts to cause or purposely, knowingly or recklessly
44 causes bodily injury to another; or

45 (2) Negligently causes bodily injury to another with a deadly
46 weapon; or

1 (3) Attempts by physical menace to put another in fear of
2 imminent serious bodily injury.

3 Simple assault is a disorderly persons offense unless committed
4 in a fight or scuffle entered into by mutual consent, in which case it
5 is a petty disorderly persons offense.

6 b. Aggravated assault. A person is guilty of aggravated assault
7 if the person:

8 (1) Attempts to cause serious bodily injury to another, or causes
9 injury purposely or knowingly or under circumstances manifesting
10 extreme indifference to the value of human life recklessly causes
11 such injury; or

12 (2) Attempts to cause or purposely or knowingly causes bodily
13 injury to another with a deadly weapon; or

14 (3) Recklessly causes bodily injury to another with a deadly
15 weapon; or

16 (4) Knowingly under circumstances manifesting extreme
17 indifference to the value of human life points a firearm, as defined
18 in subsection f. of N.J.S.2C:39-1, at or in the direction of another,
19 whether or not the actor believes it to be loaded; or

20 (5) Commits a simple assault as defined in paragraph (1), (2), or
21 (3) of subsection a. of this section upon:

22 (a) Any law enforcement officer acting in the performance of
23 the officer's duties while in uniform or exhibiting evidence of
24 authority or because of the officer's status as a law enforcement
25 officer; or

26 (b) Any paid or volunteer firefighter acting in the performance
27 of the firefighter's duties while in uniform or otherwise clearly
28 identifiable as being engaged in the performance of the duties of a
29 firefighter; or

30 (c) Any person engaged in emergency first-aid or medical
31 services acting in the performance of the person's duties while in
32 uniform or otherwise clearly identifiable as being engaged in the
33 performance of emergency first-aid or medical services; or

34 (d) Any school board member, school administrator, teacher,
35 school bus driver, or other employee of a public or nonpublic
36 school or school board while clearly identifiable as being engaged
37 in the performance of the person's duties or because of the person's
38 status as a member or employee of a public or nonpublic school or
39 school board or any school bus driver employed by an operator
40 under contract to a public or nonpublic school or school board while
41 clearly identifiable as being engaged in the performance of the
42 person's duties or because of the person's status as a school bus
43 driver; or

44 (e) Any employee of the Division of Child Protection and
45 Permanency while clearly identifiable as being engaged in the
46 performance of the employee's duties or because of the status as an
47 employee of the division; or

1 (f) Any justice of the Supreme Court, judge of the Superior
2 Court, judge of the Tax Court or municipal judge while clearly
3 identifiable as being engaged in the performance of judicial duties
4 or because of the status as a member of the judiciary; or

5 (g) Any operator of a motorbus or the operator's supervisor or
6 any employee of a rail passenger service while clearly identifiable
7 as being engaged in the performance of the person's duties or
8 because of the status as an operator of a motorbus or as the
9 operator's supervisor or as an employee of a rail passenger service;
10 or

11 (h) Any Department of Corrections employee, county
12 correctional police officer, juvenile correctional police officer, State
13 juvenile facility employee, juvenile detention staff member,
14 juvenile detention officer, probation officer or any sheriff,
15 undersheriff, or sheriff's officer acting in the performance of the
16 person's duties while in uniform or exhibiting evidence of the
17 person's authority or because of the status as a Department of
18 Corrections employee, county correctional police officer, juvenile
19 correctional police officer, State juvenile facility employee, juvenile
20 detention staff member, juvenile detention officer, probation
21 officer, sheriff, undersheriff, or sheriff's officer; or

22 (i) Any employee, including any person employed under
23 contract, of a utility company as defined in section 2 of P.L.1971,
24 c.224 (C.2A:42-86) or a cable television company subject to the
25 provisions of the "Cable Television Act," P.L.1972, c.186
26 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in
27 the performance of the employee's duties in regard to connecting,
28 disconnecting, or repairing or attempting to connect, disconnect, or
29 repair any gas, electric, or water utility, or cable television or
30 telecommunication service; or

31 (j) Any health care worker employed by a licensed health care
32 facility to provide direct patient care, any health care professional
33 licensed or otherwise authorized pursuant to Title 26 or Title 45 of
34 the Revised Statutes to practice a health care profession, except a
35 direct care worker at a State or county psychiatric hospital or State
36 developmental center or veterans' memorial home, while clearly
37 identifiable as being engaged in the duties of providing direct
38 patient care or practicing the health care profession; or

39 (k) Any direct care worker at a State or county psychiatric
40 hospital or State developmental center or veterans' memorial home,
41 while clearly identifiable as being engaged in the duties of
42 providing direct patient care or practicing the health care
43 profession, provided that the actor is not a patient or resident at the
44 facility who is classified by the facility as having a mental illness or
45 developmental disability; or

46 (l) Any employee of a 'store or other' retail mercantile
47 establishment ']. "Employee of a retail mercantile establishment"
48 means any person,]' while clearly identifiable as being engaged in

1 the performance of the person's duties ¹], engaged in the sale,
2 display, or offering for sale of consumer commodities and who is
3 employed by any place of business where merchandise is displayed,
4 held, stored, or sold or offered at retail to members of consuming
5 public] . "Store or other retail mercantile establishment" means the
6 same as such term is defined in N.J.S.2C:20-11. "Employee"
7 means any person who provides customer assistance, store
8 management, visual merchandising, loss prevention or security
9 services, whether in uniform or in plain clothes, or who acts as a
10 cashier, salesperson, or team associate or otherwise interacts with
11 customers for or on behalf of the store or other retail mercantile
12 establishment¹; or

13 (6) Causes bodily injury to another person while fleeing or
14 attempting to elude a law enforcement officer in violation of
15 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
16 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any
17 other provision of law to the contrary, a person shall be strictly
18 liable for a violation of this paragraph upon proof of a violation of
19 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
20 violation of subsection c. of N.J.S.2C:20-10 which resulted in
21 bodily injury to another person; or

22 (7) Attempts to cause significant bodily injury to another or
23 causes significant bodily injury purposely or knowingly or, under
24 circumstances manifesting extreme indifference to the value of
25 human life recklessly causes such significant bodily injury; or

26 (8) Causes bodily injury by knowingly or purposely starting a
27 fire or causing an explosion in violation of N.J.S.2C:17-1 which
28 results in bodily injury to any emergency services personnel
29 involved in fire suppression activities, rendering emergency
30 medical services resulting from the fire or explosion or rescue
31 operations, or rendering any necessary assistance at the scene of the
32 fire or explosion, including any bodily injury sustained while
33 responding to the scene of a reported fire or explosion. For
34 purposes of this paragraph, "emergency services personnel" shall
35 include, but not be limited to, any paid or volunteer firefighter, any
36 person engaged in emergency first-aid or medical services and any
37 law enforcement officer. Notwithstanding any other provision of
38 law to the contrary, a person shall be strictly liable for a violation of
39 this paragraph upon proof of a violation of N.J.S.2C:17-1 which
40 resulted in bodily injury to any emergency services personnel; or

41 (9) Knowingly, under circumstances manifesting extreme
42 indifference to the value of human life, points or displays a firearm,
43 as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of
44 a law enforcement officer; or

45 (10) Knowingly points, displays or uses an imitation firearm, as
46 defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a
47 law enforcement officer with the purpose to intimidate, threaten, or

1 attempt to put the officer in fear of bodily injury or for any unlawful
2 purpose; or

3 (11) Uses or activates a laser sighting system or device, or a
4 system or device which, in the manner used, would cause a
5 reasonable person to believe that it is a laser sighting system or
6 device, against a law enforcement officer acting in the performance
7 of the officer's duties while in uniform or exhibiting evidence of the
8 officer's authority. As used in this paragraph, "laser sighting system
9 or device" means any system or device that is integrated with or
10 affixed to a firearm and emits a laser light beam that is used to
11 assist in the sight alignment or aiming of the firearm; or

12 (12) Attempts to cause significant bodily injury or causes
13 significant bodily injury purposely or knowingly or, under
14 circumstances manifesting extreme indifference to the value of
15 human life, recklessly causes significant bodily injury to a person
16 who, with respect to the actor, meets the definition of a victim of
17 domestic violence, as defined in subsection d. of section 3 of
18 P.L.1991, c.261 (C.2C:25-19); or

19 (13) Knowingly or, under circumstances manifesting extreme
20 indifference to the value of human life, recklessly obstructs the
21 breathing or blood circulation of a person who, with respect to the
22 actor, meets the definition of a victim of domestic violence, as
23 defined in subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-
24 19), by applying pressure on the throat or neck or blocking the nose
25 or mouth of such person, thereby causing or attempting to cause
26 bodily injury.

27 Aggravated assault under paragraphs (1) and (6) of subsection b.
28 of this section is a crime of the second degree; under paragraphs
29 (2), (7), (9), and (10) of subsection b. of this section is a crime of
30 the third degree; under paragraphs (3) and (4) of subsection b. of
31 this section is a crime of the fourth degree; and under paragraph (5)
32 of subsection b. of this section is a crime of the third degree if the
33 victim suffers bodily injury, otherwise it is a crime of the fourth
34 degree, except that any aggravated assault under subparagraph (g)
35 of paragraph (5) of subsection b. of this section shall be a crime of
36 the third degree. Aggravated assault under paragraph (8) of
37 subsection b. of this section is a crime of the third degree if the
38 victim suffers bodily injury; if the victim suffers significant bodily
39 injury or serious bodily injury it is a crime of the second degree.
40 Aggravated assault under paragraph (11) of subsection b. of this
41 section is a crime of the third degree. Aggravated assault under
42 paragraph (12) of subsection b. of this section is a crime of the third
43 degree but the presumption of non-imprisonment set forth in
44 subsection e. of N.J.S.2C:44-1 for a first offense of a crime of the
45 third degree shall not apply. Aggravated assault under paragraph
46 (13) of subsection b. of this section is a crime of the second degree.

47 c. (1) A person is guilty of assault by auto or vessel when the
48 person drives a vehicle or vessel recklessly and causes either

1 serious bodily injury or bodily injury to another. Assault by auto or
2 vessel is a crime of the fourth degree if serious bodily injury results
3 and is a disorderly persons offense if bodily injury results. Proof
4 that the defendant was operating a hand-held wireless telephone
5 while driving a motor vehicle in violation of section 1 of P.L.2003,
6 c.310 (C.39:4-97.3) may give rise to an inference that the defendant
7 was driving recklessly.

8 (2) Assault by auto or vessel is a crime of the third degree if the
9 person drives the vehicle while in violation of R.S.39:4-50 or
10 section 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily
11 injury results and is a crime of the fourth degree if the person drives
12 the vehicle while in violation of R.S.39:4-50 or section 2 of
13 P.L.1981, c.512 (C.39:4-50.4a) and bodily injury results.

14 (3) Assault by auto or vessel is a crime of the second degree if
15 serious bodily injury results from the defendant operating the auto
16 or vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981,
17 c.512 (C.39:4-50.4a) while:

18 (a) on any school property used for school purposes which is
19 owned by or leased to any elementary or secondary school or school
20 board, or within 1,000 feet of such school property;

21 (b) driving through a school crossing as defined in R.S.39:1-1 if
22 the municipality, by ordinance or resolution, has designated the
23 school crossing as such; or

24 (c) driving through a school crossing as defined in R.S.39:1-1
25 knowing that juveniles are present if the municipality has not
26 designated the school crossing as such by ordinance or resolution.

27 Assault by auto or vessel is a crime of the third degree if bodily
28 injury results from the defendant operating the auto or vessel in
29 violation of this paragraph.

30 A map or true copy of a map depicting the location and
31 boundaries of the area on or within 1,000 feet of any property used
32 for school purposes which is owned by or leased to any elementary
33 or secondary school or school board produced pursuant to section 1
34 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under
35 subparagraph (a) of paragraph (3) of this subsection.

36 It shall be no defense to a prosecution for a violation of
37 subparagraph (a) or (b) of paragraph (3) of this subsection that the
38 defendant was unaware that the prohibited conduct took place while
39 on or within 1,000 feet of any school property or while driving
40 through a school crossing. Nor shall it be a defense to a prosecution
41 under subparagraph (a) or (b) of paragraph (3) of this subsection
42 that no juveniles were present on the school property or crossing
43 zone at the time of the offense or that the school was not in session.

44 (4) Assault by auto or vessel is a crime of the third degree if the
45 person purposely drives a vehicle in an aggressive manner directed
46 at another vehicle and serious bodily injury results and is a crime of
47 the fourth degree if the person purposely drives a vehicle in an
48 aggressive manner directed at another vehicle and bodily injury

1 results. For purposes of this paragraph, "driving a vehicle in an
2 aggressive manner" shall include, but is not limited to,
3 unexpectedly altering the speed of the vehicle, making improper or
4 erratic traffic lane changes, disregarding traffic control devices,
5 failing to yield the right of way, or following another vehicle too
6 closely.

7 As used in this subsection, "vessel" means a means of
8 conveyance for travel on water and propelled otherwise than by
9 muscular power.

10 d. A person who is employed by a facility as defined in section
11 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as
12 defined in paragraph (1) or (2) of subsection a. of this section upon
13 an institutionalized elderly person as defined in section 2 of
14 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
15 degree.

16 e. (Deleted by amendment, P.L.2001, c.443).

17 f. A person who commits a simple assault as defined in
18 paragraph (1), (2), or (3) of subsection a. of this section in the
19 presence of a child under 16 years of age at a school or community
20 sponsored youth sports event is guilty of a crime of the fourth
21 degree. The defendant shall be strictly liable upon proof that the
22 offense occurred, in fact, in the presence of a child under 16 years
23 of age. It shall not be a defense that the defendant did not know
24 that the child was present or reasonably believed that the child was
25 16 years of age or older. The provisions of this subsection shall not
26 be construed to create any liability on the part of a participant in a
27 youth sports event or to abrogate any immunity or defense available
28 to a participant in a youth sports event. As used in this act, "school
29 or community sponsored youth sports event" means a competition,
30 practice, or instructional event involving one or more
31 interscholastic sports teams or youth sports teams organized
32 pursuant to a nonprofit or similar charter or which are member
33 teams in a youth league organized by or affiliated with a county or
34 municipal recreation department and shall not include collegiate,
35 semi-professional or professional sporting events.

36 (cf: P.L.2021, c.352, s.1)

37

38 4. N.J.S.2C:20-11 is amended to read as follows:

39 a. Definitions. The following definitions apply to this section:

40 (1) "Shopping cart" means those push carts of the type or types
41 which are commonly provided by grocery stores, drug stores or
42 other retail mercantile establishments for the use of the public in
43 transporting commodities in stores and markets and, incidentally,
44 from the stores to a place outside the store;

45 (2) "Store or other retail mercantile establishment" means a
46 place where merchandise is displayed, held, stored or sold or
47 offered to the public for sale;

- 1 (3) "Merchandise" means any goods, chattels, foodstuffs or
2 wares of any type and description, regardless of the value thereof;
- 3 (4) "Merchant" means any owner or operator of any store or
4 other retail mercantile establishment, or any agent, servant,
5 employee, lessee, consignee, officer, director, franchisee or
6 independent contractor of such owner or proprietor;
- 7 (5) "Person" means any individual or individuals, including an
8 agent, servant or employee of a merchant where the facts of the
9 situation so require;
- 10 (6) "Conceal" means to conceal merchandise so that, although
11 there may be some notice of its presence, it is not visible through
12 ordinary observation;
- 13 (7) "Full retail value" means the merchant's stated or advertised
14 price of the merchandise;
- 15 (8) "Premises of a store or retail mercantile establishment"
16 means and includes but is not limited to, the retail mercantile
17 establishment; any common use areas in shopping centers and all
18 parking areas set aside by a merchant or on behalf of a merchant for
19 the parking of vehicles for the convenience of the patrons of such
20 retail mercantile establishment;
- 21 (9) "Under-ring" means to cause the cash register or other sale
22 recording device to reflect less than the full retail value of the
23 merchandise;
- 24 (10) "Antishoplifting or inventory control device
25 countermeasure" means any item or device which is designed,
26 manufactured, modified, or altered to defeat any antishoplifting or
27 inventory control device;
- 28 (11) "Organized retail theft enterprise" means any association of
29 two or more persons who engage in the conduct of or are associated
30 for the purpose of effectuating the transfer or sale of shoplifted
31 merchandise.
- 32 b. Shoplifting. Shoplifting shall consist of any one or more of
33 the following acts:
- 34 (1) For any person purposely to take possession of, carry away,
35 transfer or cause to be carried away or transferred, any merchandise
36 displayed, held, stored or offered for sale by any store or other retail
37 mercantile establishment with the intention of depriving the
38 merchant of the possession, use or benefit of such merchandise or
39 converting the same to the use of such person without paying to the
40 merchant the full retail value thereof.
- 41 (2) For any person purposely to conceal upon his person or
42 otherwise any merchandise offered for sale by any store or other
43 retail mercantile establishment with the intention of depriving the
44 merchant of the processes, use or benefit of such merchandise or
45 converting the same to the use of such person without paying to the
46 merchant the value thereof.
- 47 (3) For any person purposely to alter, transfer or remove any
48 label, price tag or marking indicia of value or any other markings

1 which aid in determining value affixed to any merchandise
2 displayed, held, stored or offered for sale by any store or other retail
3 mercantile establishment and to attempt to purchase such
4 merchandise personally or in consort with another at less than the
5 full retail value with the intention of depriving the merchant of all
6 or some part of the value thereof.

7 (4) For any person purposely to transfer any merchandise
8 displayed, held, stored or offered for sale by any store or other retail
9 merchandise establishment from the container in or on which the
10 same shall be displayed to any other container with intent to deprive
11 the merchant of all or some part of the retail value thereof.

12 (5) For any person purposely to under-ring with the intention of
13 depriving the merchant of the full retail value thereof.

14 (6) For any person purposely to remove a shopping cart from the
15 premises of a store or other retail mercantile establishment without
16 the consent of the merchant given at the time of such removal with
17 the intention of permanently depriving the merchant of the
18 possession, use or benefit of such cart.

19 c. Gradation. (1) Shoplifting constitutes a crime of the second
20 degree under subsection b. of this section if the full retail value of
21 the merchandise is \$75,000 or more, or the offense is committed in
22 furtherance of or in conjunction with an organized retail theft
23 enterprise and the full retail value of the merchandise is \$1,000 or
24 more.

25 (2) Shoplifting constitutes a crime of the third degree under
26 subsection b. of this section if the full retail value of the
27 merchandise exceeds \$500 but is less than \$75,000, or the offense
28 is committed in furtherance of or in conjunction with an organized
29 retail theft enterprise and the full retail value of the merchandise is
30 less than \$1,000.

31 (3) Shoplifting constitutes a crime of the fourth degree under
32 subsection b. of this section if the full retail value of the
33 merchandise is at least \$200 but does not exceed \$500.

34 (4) Shoplifting is a disorderly persons offense under subsection
35 b. of this section if the full retail value of the merchandise is less
36 than \$200.

37 The ¹**total**¹ value of the merchandise involved in a violation or
38 ¹in¹ multiple violations of this section may be aggregated ¹**within**
39 **the previous one-year period**¹ in determining the grade of the
40 offense where the acts or conduct constituting a violation were
41 committed pursuant to one scheme or course of conduct, whether
42 from the same person or several persons ¹and regardless of the time
43 period over which the scheme or course of conduct took place¹, or
44 were committed in furtherance of or in conjunction with an
45 organized retail theft enterprise.

46 Additionally, notwithstanding the term of imprisonment provided
47 in N.J.S.2C:43-6 or 2C:43-8, any person convicted of a shoplifting

1 offense shall be sentenced to perform community service as
2 follows: for a first offense, at least ten days of community service;
3 for a second offense, at least 15 days of community service; and for
4 a third or subsequent offense, a maximum of 25 days of community
5 service and any person convicted of a third or subsequent
6 shoplifting offense shall serve a minimum term of imprisonment of
7 not less than 90 days.

8 d. Presumptions. Any person purposely concealing
9 unpurchased merchandise of any store or other retail mercantile
10 establishment, either on the premises or outside the premises of
11 such store or other retail mercantile establishment, shall be prima
12 facie presumed to have so concealed such merchandise with the
13 intention of depriving the merchant of the possession, use or benefit
14 of such merchandise without paying the full retail value thereof,
15 and the finding of such merchandise concealed upon the person or
16 among the belongings of such person shall be prima facie evidence
17 of purposeful concealment; and if such person conceals, or causes
18 to be concealed, such merchandise upon the person or among the
19 belongings of another, the finding of the same shall also be prima
20 facie evidence of willful concealment on the part of the person so
21 concealing such merchandise.

22 e. A law enforcement officer, or a special officer, or a
23 merchant, who has probable cause for believing that a person has
24 willfully concealed unpurchased merchandise and that he can
25 recover the merchandise by taking the person into custody, may, for
26 the purpose of attempting to effect recovery thereof, take the person
27 into custody and detain him in a reasonable manner for not more
28 than a reasonable time, and the taking into custody by a law
29 enforcement officer or special officer or merchant shall not render
30 such person criminally or civilly liable in any manner or to any
31 extent whatsoever.

32 Any law enforcement officer may arrest without warrant any
33 person he has probable cause for believing has committed the
34 offense of shoplifting as defined in this section.

35 A merchant who causes the arrest of a person for shoplifting, as
36 provided for in this section, shall not be criminally or civilly liable
37 in any manner or to any extent whatsoever where the merchant has
38 probable cause for believing that the person arrested committed the
39 offense of shoplifting.

40 f. Any person who possesses or uses any antishoplifting or
41 inventory control device countermeasure within any store or other
42 retail mercantile establishment is guilty of a disorderly persons
43 offense.

44 (cf: P.L.2006, c.56, s.1)

45

46 ¹5. Section 2 of P.L.2006, c.56 (C.2C:20-11.2) is amended to
47 read as follows:

1 2. A person is a leader of an organized retail theft enterprise if
2 he conspires with others as an organizer, supervisor, financier or
3 manager, to engage for profit in a scheme or course of conduct to
4 effectuate the transfer or sale of shoplifted merchandise. Leader of
5 organized retail theft enterprise is a crime of the **second** first
6 degree. Notwithstanding the provisions of subsection a. of
7 N.J.S.2C:43-3, the court may impose a fine not to exceed \$250,000
8 or five times the retail value of the merchandise seized at the time
9 of the arrest, whichever is greater.

10 Notwithstanding the provisions of N.J.S.2C:1-8, a conviction of
11 leader of organized retail theft enterprise shall not merge with the
12 conviction for any offense which is the object of the conspiracy.
13 Nothing contained in this section shall prohibit the court from
14 imposing an extended term pursuant to N.J.S.2C:43-7; nor shall this
15 section be construed in any way to preclude or limit the prosecution
16 or conviction of any person for conspiracy under N.J.S.2C:5-2, or
17 any prosecution or conviction for any other offense.

18 It shall not be necessary in any prosecution under this section for
19 the State to prove that any intended profit was actually realized. The
20 trier of fact may infer that a particular scheme or course of conduct
21 was undertaken for profit from all of the attending circumstances,
22 including but not limited to the number of persons involved in the
23 scheme or course of conduct, the actor's net worth and his
24 expenditures in relation to his legitimate sources of income, the
25 amount of merchandise involved, or the amount of cash or currency
26 involved.

27 It shall not be a defense to a prosecution under this section that
28 any shoplifted merchandise was brought into or transported in this
29 State solely for ultimate distribution in another jurisdiction; nor
30 shall it be a defense that any profit was intended to be made in
31 another jurisdiction.

32 (cf: P.L.2006, c.56, s.2)¹

33
34 ¹**[6.] 5.**¹ (New section) a. Upon request of the prosecutor, a
35 person who has been convicted of shoplifting pursuant to
36 N.J.S.2C:20-11, receiving stolen property pursuant to N.J.S.2C:20-
37 7, leader of organized retail theft enterprise pursuant to section 2 of
38 P.L.2006, c.56 (C.2C:20-11.2); or theft as defined in chapter 20 of
39 Title 2C of the New Jersey Statutes that involves the stealing of
40 merchandise from a retail mercantile establishment shall be
41 sentenced to an extended term of imprisonment pursuant to
42 N.J.S.2C:43-7 if the person has previously been convicted on two or
43 more prior and separate occasions, regardless of the dates of the
44 convictions, in accordance with the provisions of subsection b. of
45 this section, for a violation of paragraphs (1) or (2) of subsection c.
46 of N.J.S.2C:20-11, N.J.S.2C:20-7, section 2 of P.L.2006, c.56
47 (C.2C:20-11.2), or theft as defined in chapter 20 of Title 2C of the
48 New Jersey Statutes involving the stealing of merchandise, or a

1 crime under any statute of the United States, this State, or any other
2 state for a crime that is substantially equivalent to a violation of
3 shoplifting, leader of organized retail theft enterprise, or theft
4 involving merchandise.

5 b. The provisions of this section shall not apply unless the prior
6 convictions are for crimes committed on separate occasions and the
7 crime for which the defendant is being sentenced was committed
8 either:

9 (1) within 10 years of the date of the defendant's last release
10 from confinement for the commission of any crime; or

11 (2) within 10 years of the date of the commission of the most
12 recent of the crimes enumerated in subsection a. of this section for
13 which the defendant has a prior conviction.

14 c. Prior convictions shall be defined and proven in accordance
15 with N.J.S.2C:44-4.

16 d. The court shall not impose a sentence of imprisonment
17 pursuant to this section unless the ground therefor has been
18 established at a hearing after the conviction of the defendant and on
19 written notice to the defendant of the ground proposed. The
20 defendant shall have the right to hear and controvert the evidence
21 against him and to offer evidence upon the issue.

22

23 ¹~~7.~~ 6.¹ (New section) a. The Attorney General shall ¹~~],~~ in
24 consultation with the Director of the Division of Criminal Justice,
25 ~~establish~~ undertake such steps as the Attorney General deems
26 appropriate to promote the effective investigation, prosecution, and
27 deterrence of organized retail theft in this State, which may include
28 establishing¹ a retail theft unit ¹, task force,¹ or other appropriate
29 office ¹or initiative¹ in the Department of Law and Public Safety to
30 combat organized retail theft ¹~~in this State. The Attorney General~~
31 ~~shall~~ or the implementation of a Statewide policy to direct and
32 coordinate State and local law enforcement efforts to¹ investigate
33 ¹~~], coordinate, and supply resources to~~ and¹ prosecute organized
34 retail theft.

35 b. (1). In a manner prescribed by the Attorney General, a
36 county prosecutor, law enforcement officer, special officer, or retail
37 merchant may notify the Division of Criminal Justice ¹, or other
38 entity within the Department of Law and Public Safety designated
39 by the Attorney General to receive notice,¹ of allegations that a
40 crime of retail theft was committed.

41 (2) In a manner prescribed by the Attorney General, a county
42 prosecutor shall notify the Division of Criminal Justice ¹, or other
43 entity within the Department of Law and Public Safety designated
44 by the Attorney General to receive notice,¹ that a crime of retail
45 theft was allegedly committed by a defendant if:

46 (a) there is probable cause that the defendant has committed two
47 or more acts of retail theft in the State;

1 (b) there is probable cause that the defendant has committed one
2 or more acts of retail theft in this State and one or more acts of
3 retail theft in another state; or

4 (c) the defendant has previously been convicted of retail theft in
5 this State or another state.

6 c. ¹**[The]** In addition to any other authority provided under the
7 law, the¹ Division of Criminal Justice shall have the authority to:

8 (1) investigate and, if warranted, prosecute cases concerning
9 acts of retail theft; and

10 (2) assist county prosecutors in the investigation and prosecution
11 of acts of retail theft.

12 d. As used in this section, “retail theft” shall include the crimes
13 of shoplifting pursuant to N.J.S.2C:20-11; leader of organized retail
14 theft enterprise pursuant to section 2 of P.L.2006, c.56 (C.2C:20-
15 11.2); or theft as defined in chapter 20 of Title 2C of the New
16 Jersey Statutes that involves the stealing of merchandise.

17
18 ¹**[8.] 7.**¹ Section 19 of P.L.1987, c.76 (C.54:52-9) is amended
19 to read as follows:

20 19. a. A person is guilty of a crime ¹**[of the third degree]**¹ if he
21 fails to pay or turn over when due any tax, fee, penalty or interest or
22 any part thereof required to be paid pursuant to the provisions of the
23 State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., as amended
24 and supplemented, or any State tax law, with the intent to evade,
25 avoid or otherwise not make timely payment or deposit of any tax,
26 fee, penalty or interest or any part thereof. The crime shall be of
27 the second degree if ¹**[a person fails to pay or turn over when due**
28 **any]** any portion of the¹ tax, fee, penalty or interest or any part
29 thereof required to be paid ¹**[in connection with the person being a**
30 **leader of an organized retail theft enterprise]** or turned over was
31 accrued through conduct committed¹ in violation ¹of¹ section 2 of
32 P.L.2006, c.56 (C.2C:20-11.2) ¹, otherwise it shall be a crime of the
33 third degree¹.

34 b. The fact that any payment was made with a subsequently
35 dishonored negotiable instrument shall constitute prima facie
36 evidence that the actor failed to pay within the meaning of
37 subsection a. of this section, and the trier of fact may draw a
38 permissive inference therefrom that the actor did not intend to make
39 the payment.

40 (cf: P.L.1987, c.76, s.19)

41
42 ¹**[9.] 8.**¹ Section 25 of P.L.1987, c.76 (C.54:52-15) is
43 amended to read as follows:

44 25. A person is guilty of a crime of the third degree if ¹**[he]**¹,
45 after having collected or withheld taxes as required by any State tax
46 law, whether or not ¹**[he]** the person¹ is authorized, licensed, or

1 registered to collect or withhold taxes, ¹the person¹ purposely fails
 2 to turn over the taxes to the Director of the Division of Taxation in
 3 the manner and at the time prescribed by law. The crime shall be of
 4 the second degree if the amount of the tax collected or withheld is
 5 \$75,000.00 or more, or if the ¹person is a leader of ¹taxes the
 6 person failed to turn over to the Director of the Division of Taxation
 7 were collected or withheld as part of¹ an organized retail theft
 8 enterprise in violation of section 2 of P.L.2006, c.56 (C.2C:20-
 9 11.2).

10 (cf: P.L.1987, c.76, s.25)

11

12 ¹**[10.] 9.**¹ Section 1 of P.L.2021, c.431 (C.56:8-110.1) is
 13 amended to read as follows:

14 1. a. Every retail mercantile establishment in this State that
 15 displays ¹open-loop gift cards or closed-loop¹ gift cards for sale
 16 shall train employees on how to identify and respond to ¹open-
 17 loop gift card or closed-loop¹ gift card fraud. A retail mercantile
 18 establishment shall conduct the training in accordance with
 19 guidelines issued pursuant to section 2 of **[this act]** P.L.2021, c.431
 20 (C.56:8-110.2).

21 b. A retail mercantile establishment that violates the provisions
 22 of this section or section 10 of P.L. , c. (C.) (pending
 23 before the Legislature as this bill) shall be subject to a civil penalty
 24 of \$1,000, which may be collected and enforced by the Director of
 25 the Division of Consumer Affairs in the Department of Law and
 26 Public Safety in a summary proceeding pursuant to the “Penalty
 27 Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).
 28 The Superior Court shall have jurisdiction of proceedings for the
 29 enforcement of the penalty provided by this section.

30 A violation of this section shall not be considered an unlawful
 31 practice in violation of P.L.1960, c.39 (C.56:8-1 et seq.).

32 c. As used in ¹**[this]**¹ **[section]** P.L.2021, c.431 ¹(C.56:8-110.1
 33 et seq.)¹, and section 10 of P.L. , c. (C.) (pending before the
 34 Legislature as this bill):

35 ¹“Closed-loop gift card” means a gift card, code or device that
 36 is:

37 (1) issued to a consumer on a prepaid basis primarily for
 38 personal, family, or household purposes in a specified amount,
 39 regardless of whether that amount may be increased or reloaded in
 40 exchange for payment; and

41 (2) redeemable on presentation by a consumer at a single retail
 42 mercantile establishment or a group of affiliated retail mercantile
 43 establishments.]¹

44 “Gift card” means a tangible device, whereon is embedded or
 45 encoded in an electronic or other format a value issued in exchange

1 for payment, which promises to provide to the bearer merchandise
2 of equal value to the remaining balance of the device. ¹A “gift
3 card” shall not include a stored value reloadable card as defined in
4 subsection k. of section 5 of P.L.2010, c.25 (C.46:30B-42.1).¹

5 “Merchandise” means any objects, wares, goods, commodities,
6 services, or anything offered, directly or indirectly, to the public for
7 sale.

8 ¹“Open-Loop Gift Card” means a card, code, or device that is:

9 (1) issued to a consumer on a prepaid basis primarily for
10 personal, family, or household purposes in a specified amount,
11 regardless of whether that amount may be increased or reloaded in
12 exchange for payment;

13 (2) payment card network branded; and

14 (3) redeemable on presentation at multiple unaffiliated merchants
15 for goods or services within the payment card network or usable at
16 an automated teller machine.]¹

17 “Retail mercantile establishment” means any place of business
18 where merchandise is exposed or offered for sale at retail to
19 members of the consuming public.

20 “Third-Party Gift Card Reseller” means a merchant who, without
21 authorization from or affiliation with the business entity issuing
22 ¹[an open- or closed-loop] a¹ gift card, is engaged in the business
23 of:

24 (1) buying ¹[an open- or closed-loop]¹ gift cards on behalf of
25 consumers; or

26 (2) reselling ¹[an open- or closed-loop]¹ gift cards to consumers.
27 (cf: P.L.2021, c.431, s.1)

28

29 ¹[11.] 10.¹ (New section) a. The Director of the Division of
30 Consumer Affairs in the Department of Law and Public Safety shall
31 create and ¹[provide] make available on its Internet website¹ a
32 notice to ¹customers of¹ retail mercantile establishments which
33 shall include, but not be limited to:

34 (1) the risk of gift card scams; and

35 (2) available assistance, including from the Division of
36 Consumer Affairs, a consumer may seek if the consumer suspects
37 they may be a victim of a gift card scam.

38 b. (1) ¹[Except as provided in subsection e. of this section, a]
39 A¹ retail mercantile establishment may not knowingly sell ¹[an
40 open-loop gift card or closed-loop] a¹ gift card to a consumer
41 unless the retail mercantile establishment conspicuously displays a
42 notice in a form as prescribed by the Director of the Division of
43 Consumer Affairs in accordance with subsection a. of this section.

44 (2) For in-person sales, the notice shall be placed at or near the
45 physical location where the ¹[open-loop]¹ gift card is displayed for

1 sale or where the ~~1~~ **1** ~~sale of the open-loop~~ **1** gift card ~~1~~ **1** ~~is sold~~ **1** sales
2 transaction takes place¹.

3 (3) For online sales of ~~1~~ **1** ~~open-loop~~ **1** gift cards, the notice shall
4 be displayed on the webpage where the gift card is offered for sale
5 or before the sale is finalized.

6 c. ~~1~~ **1** ~~For the sale of an open-loop~~ **1** Except as otherwise
7 provided in subsection d. of this section, a retail mercantile
8 establishment may not display or sell a¹ gift card ~~1~~ **1** ~~pursuant to~~
9 paragraph (2) of subsection b., the gift card shall be enclosed in
10 packaging that **1** ~~unless~~¹:

11 (1) ~~1~~ **1** the gift card or its packaging includes in a manner visible to
12 potential purchasers when on display a warning that states “Do not
13 sell or purchase if the gift card or its packaging has been broken or
14 indicates tampering” or that uses substantially similar language;

15 (2) the gift card, if enclosed in packaging,¹ is sealed in a manner
16 that is not easily opened ¹, removed, or replaced¹ without signs of
17 tampering;

18 ~~1~~ **1** ~~(2) except as provided in paragraph (3) of this subsection,~~
19 ~~conceals~~ **1** and

20 (3) regardless of whether the gift card is or is not enclosed in
21 packaging,¹ all ~~1~~ **1** ~~numeric codes specific to the activation or the~~
22 ~~redemption of the gift~~ **1** visible numbers such as a¹ card ~~1~~ **1**,
23 including any bar code **1** number¹, CVV number, ~~1~~ **1** ~~pin~~ **1** or a PIN¹
24 number¹, or activation code;

25 (3) displays an activation code, bar code, or other activation data
26 only if the packaging used is more secure than it otherwise would
27 be if the data were fully concealed; and

28 (4) includes a warning that states the following or uses language
29 substantially similar to the following: “Do not sell or purchase if
30 packaging has been broken or indicates tampering.” **1** that can be
31 used for balance inquiries or manual entry redemption are either
32 fully concealed or covered, or otherwise made unavailable prior to
33 sale or, only if the gift card is enclosed in packaging that is
34 designed to make the gift card more secure than full concealment or
35 covering otherwise would, are partially concealed or covered.¹

36 d. ~~1~~ **1** ~~For the sale of a closed-loop gift card, the gift card shall~~
37 ~~be enclosed in packaging that:~~

38 (1) conceals or covers, in a manner that is not easily removed or
39 replaced without signs of tampering, all numeric codes specific to
40 the redemption of the gift card; or

41 (2) if made more secure through partial concealment or covering
42 than full concealment or covering pursuant to paragraph (1) of this
43 subsection, partially conceals or covers, in a manner that is not
44 easily removed or replaced without signs of tampering, all numeric
45 codes specific to redemption of the gift card; and

1 (3) includes a warning that states the following or uses language
2 substantially similar to the following: “Do not sell or purchase if
3 packaging has been broken or indicates tampering.”

4 e.]¹ A retail mercantile establishment may ¹display or¹ sell ¹[an
5 open- or closed loop] ¹a¹ gift card that ¹[is not enclosed in secured
6 packaging pursuant to] does not conform to the requirements of
7 paragraphs (2) and (3) of¹ subsection c. ¹[or d.]¹ of this section if:

8 (1) the gift card is a chip-enabled, numberless card that is
9 activated by a consumer after registering the card on the card
10 issuer’s website; ¹[or]¹

11 (2) the gift card is:

12 (a) sold exclusively by a retail mercantile establishment for use
13 only at the retail mercantile establishment or a group of affiliated
14 retail mercantile establishments for use at the retail mercantile
15 establishments of the affiliated establishments; and

16 (b) is secured in a physical location within the retail mercantile
17 establishment that is accessible only by an employee ¹, or

18 (3) the gift card or its packaging:

19 (a) incorporates technology that is designed to prevent
20 activation if the gift card or its packaging has been subjected to
21 tampering; or

22 (b) incorporates technology that is designed to detect and prevent
23 unauthorized redemption¹.

24 ¹[f.] e.¹ (1) When a third-party gift card reseller buys or sells
25 ¹[an open-loop] ¹a¹ gift card as part of a transaction occurring in
26 this State, the reseller shall record and, for at least three years,
27 maintain a copy of the following information as applicable:

28 (a) the date of the transaction;

29 (b) the name of the person who conducted the transaction;

30 (c) the name, age, and address of the seller of the gift card;

31 (d) the seller’s and consumer’s driver’s license number or
32 identification card number;

33 (e) a description of the purchased gift card, including, but not
34 limited to, the retailer for which the gift card is intended for use and
35 the gift card number;

36 (f) the specific amount issued on the gift card;

37 (g) the transaction price;

38 (h) the signature of the consumer.

39 (2) The information recorded and maintained pursuant to this
40 section shall be chronologically written in ink or logged into a
41 secure database, software system, or other similar technology
42 platform.

43 (3) Except as provided in paragraph (4) of this subsection,
44 recorded information may not be destroyed, altered, or erased.

45 (4) A handwritten correction may be made to an entry of
46 information by drawing a line of ink through the entry in a manner
47 that retains legibility.

1 (5) Information recorded pursuant to this subsection shall be
2 open to inspection by any duly authorized law enforcement officer
3 in this State during the ordinary business hours of the third-party
4 gift card reseller or at other reasonable time.

5 f. A third-party gift card reseller, including an agent or
6 employee of the third-party gift card reseller may not:

7 (1) fail to make an entry of or falsify, destroy, or remove any
8 information required to be recorded and maintained pursuant to this
9 section;

10 (2) refuse to allow any duly authorized law enforcement officer
11 in this State to inspect a record of information or ¹["open- or closed-
12 loop"] the¹ gift cards in the reseller's possession; or

13 (3) fail to maintain a record in pursuant to this section.

14 g. Upon ¹["the filing of an official report to"] request of¹ a law
15 enforcement agency ¹["by any person alleging to be a victim"]
16 conducting an investigation into allegations¹ of theft of one or more
17 ¹["open- or closed-loop"]¹ gift cards ¹["with an aggregate value
18 exceed \$500, law enforcement may request that"] ¹ the issuer of the
19 gift cards or the issuer's agents ¹shall¹ preserve and provide law
20 enforcement ¹with¹ all relevant evidence ¹so requested¹.

21
22 ¹["12. There is appropriated from the General Fund to the
23 Department of Law and Public Safety the sum of \$1,000,000 to
24 effectuate the provisions of this act."] ¹

25
26 ¹["13."] 11.¹ This act shall take effect immediately, except that
27 sections ¹["7,] 9 and¹ 10 ¹shall remain inoperative until October 1,
28 2025, but the Director of the Division of Consumer Affairs may
29 take such anticipatory action as may be necessary to effectuate the
30 provisions of those sections¹, and ¹["11"] section 6¹ shall take effect
31 on the 180th day after the date of enactment.

32
33
34
35
36 Upgrades, and in some circumstances provides for extended
37 terms of imprisonment for, certain retail theft crimes, addresses gift
38 card fraud, and authorizes new Attorney General initiatives to
39 address organized retail theft.

CHAPTER 39

AN ACT concerning retail theft, amending and supplementing various parts of the statutory law, and making an appropriation.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 7 of P.L.1981, c.167 (C.2C:20-7.1) is amended to read as follows:

C.2C:20-7.1 Fencing.

7. Fencing. a. Possession of altered property. Any dealer in property who knew or should have known that the identifying features such as serial numbers and permanently affixed labels of property in his possession have been removed or altered without the consent of the manufacturer is guilty of possession of altered property. It is a defense to a prosecution under this subsection that a person lawfully possesses the usual indicia of ownership in addition to mere possession.

b. (1) Dealing in stolen property. A person is guilty of dealing in stolen property if he traffics in, or initiates, organizes, plans, finances, directs, manages or supervises trafficking in stolen property, including through the use of an online platform via any electronic device or through a social media site. This paragraph shall not apply to dealing in stolen property consisting of a domestic companion animal, addressed in paragraph (2) of this subsection.

(2) Dealing in stolen domestic companion animals. A person is guilty of dealing in stolen domestic companion animals if he traffics in, or initiates, organizes, plans, finances, directs, manages or supervises trafficking in stolen property consisting of a domestic companion animal.

c. (1) For any violation of this section, other than dealing in stolen domestic companion animals, the value of the property involved in the violation shall be determined by the trier of fact for the purpose of determining the grade of the offense, and the value of the property involved in the violation may be aggregated in determining the grade of the offense where the acts or conduct constituting a violation were committed pursuant to one scheme or course of conduct, whether from the same person or several persons.

(2) A violation of this section for dealing in stolen domestic companion animals constitutes a crime of the third degree.

d. It is an affirmative defense to a prosecution under this section that the actor:

- (1) Was unaware that the property or service was that of another;
- (2) Acted under an honest claim of right to the property or service involved or that he had a right to acquire or dispose of it as he did.

e. In addition to the presumptions contained in subsection b. of N.J.S.2C:20-7, the following presumptions are available in the prosecution for a fencing offense:

(1) Proof of the purchase or sale of property at a price substantially below its fair market value, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property knew that it had been stolen;

(2) Proof of the purchase or sale of property by a dealer in that property, out of the regular course of business, or without the usual indicia of ownership other than mere possession, or the property or the job lot of which it is a part was bought, received, possessed or controlled in broken succession of title, so that it cannot be traced, by appropriate documents, in unbroken succession to the manufacturer, in all cases where the regular course of business reasonably indicates records of purchase, transfer or sale, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property knew that it had been stolen; and

(3) Proof that a person buying or selling property of the sort received obtained such property without having ascertained by reasonable inquiry that the person from whom he

obtained it had a legal right to possess or control it gives rise to an inference that such person knew that it had been stolen.

C.2C:20-7.3 Fostering the sale of stolen property, parameters; definitions.

2. a. As used in P.L.2025, c.39 (C.2C:20-7.3 et al.):

“Online platform” means any public-facing Internet website, Internet web application, or computer or mobile application, including a social networking website or publication.

“Sale” means any sale, transfer, exchange, barter, or offer for sale and distribution, in any manner or by any means whatsoever, including, but not limited to, via an online platform.

b. A person is guilty of fostering the sale of stolen property, a disorderly persons offense, if the person, acting alone or in concert with another person or persons, advertises or otherwise assists, by any means, including through personal contact or through the use of an online platform or any other communications channel or medium, in the sale of property of another knowing that it has been stolen or reasonably believing that it is stolen.

c. The following presumptions are available in the prosecution of an offense under this section of fostering the sale of stolen property:

(1) Proof of the property being advertised for sale at a price substantially below its fair market value, unless satisfactorily explained, gives rise to an inference that the person advertising or otherwise assisting in the sale of the property knew that it is stolen or reasonably believed that the property is stolen; and

(2) Proof that a person advertised or otherwise assisted in the sale of the property without having ascertained by reasonable inquiry that the person offering the property for sale had a legal right to possess or control it gives rise to an inference that such person knew that it is stolen or reasonably believed that it is stolen.

d. Nothing in this section shall be construed to preclude or limit the prosecution or conviction of any person for any other crime or offense.

3. N.J.S.2C:12-1 is amended as follows:

Assault.

2C:12-1. Assault. a. Simple assault. A person is guilty of assault if the person:

(1) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or

(2) Negligently causes bodily injury to another with a deadly weapon; or

(3) Attempts by physical menace to put another in fear of imminent serious bodily injury.

Simple assault is a disorderly persons offense unless committed in a fight or scuffle entered into by mutual consent, in which case it is a petty disorderly persons offense.

b. Aggravated assault. A person is guilty of aggravated assault if the person:

(1) Attempts to cause serious bodily injury to another, or causes injury purposely or knowingly or under circumstances manifesting extreme indifference to the value of human life recklessly causes such injury; or

(2) Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon; or

(3) Recklessly causes bodily injury to another with a deadly weapon; or

(4) Knowingly under circumstances manifesting extreme indifference to the value of human life points a firearm, as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of another, whether or not the actor believes it to be loaded; or

(5) Commits a simple assault as defined in paragraph (1), (2), or (3) of subsection a. of this section upon:

(a) Any law enforcement officer acting in the performance of the officer's duties while in uniform or exhibiting evidence of authority or because of the officer's status as a law enforcement officer; or

(b) Any paid or volunteer firefighter acting in the performance of the firefighter's duties while in uniform or otherwise clearly identifiable as being engaged in the performance of the duties of a firefighter; or

(c) Any person engaged in emergency first-aid or medical services acting in the performance of the person's duties while in uniform or otherwise clearly identifiable as being engaged in the performance of emergency first-aid or medical services; or

(d) Any school board member, school administrator, teacher, school bus driver, or other employee of a public or nonpublic school or school board while clearly identifiable as being engaged in the performance of the person's duties or because of the person's status as a member or employee of a public or nonpublic school or school board or any school bus driver employed by an operator under contract to a public or nonpublic school or school board while clearly identifiable as being engaged in the performance of the person's duties or because of the person's status as a school bus driver; or

(e) Any employee of the Division of Child Protection and Permanency while clearly identifiable as being engaged in the performance of the employee's duties or because of the status as an employee of the division; or

(f) Any justice of the Supreme Court, judge of the Superior Court, judge of the Tax Court or municipal judge while clearly identifiable as being engaged in the performance of judicial duties or because of the status as a member of the judiciary; or

(g) Any operator of a motorbus or the operator's supervisor or any employee of a rail passenger service while clearly identifiable as being engaged in the performance of the person's duties or because of the status as an operator of a motorbus or as the operator's supervisor or as an employee of a rail passenger service; or

(h) Any Department of Corrections employee, county correctional police officer, juvenile correctional police officer, State juvenile facility employee, juvenile detention staff member, juvenile detention officer, probation officer or any sheriff, undersheriff, or sheriff's officer acting in the performance of the person's duties while in uniform or exhibiting evidence of the person's authority or because of the status as a Department of Corrections employee, county correctional police officer, juvenile correctional police officer, State juvenile facility employee, juvenile detention staff member, juvenile detention officer, probation officer, sheriff, undersheriff, or sheriff's officer; or

(i) Any employee, including any person employed under contract, of a utility company as defined in section 2 of P.L.1971, c.224 (C.2A:42-86) or a cable television company subject to the provisions of the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in the performance of the employee's duties in regard to connecting, disconnecting, or repairing or attempting to connect, disconnect, or repair any gas, electric, or water utility, or cable television or telecommunication service; or

(j) Any health care worker employed by a licensed health care facility to provide direct patient care, any health care professional licensed or otherwise authorized pursuant to Title 26 or Title 45 of the Revised Statutes to practice a health care profession, except a direct care worker at a State or county psychiatric hospital or State developmental center or veterans' memorial home, while clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession; or

(k) Any direct care worker at a State or county psychiatric hospital or State developmental center or veterans' memorial home, while clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession, provided that the actor is not a patient or resident at the facility who is classified by the facility as having a mental illness or developmental disability; or

(l) Any employee of a store or other retail mercantile establishment while clearly identifiable as being engaged in the performance of the person's duties. "Store or other retail mercantile establishment" means the same as such term is defined in N.J.S.2C:20-11. "Employee" means any person who provides customer assistance, store management, visual merchandising, loss prevention or security services, whether in uniform or in plain clothes, or who acts as a cashier, salesperson, or team associate or otherwise interacts with customers for or on behalf of the store or other retail mercantile establishment; or

(6) Causes bodily injury to another person while fleeing or attempting to elude a law enforcement officer in violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this paragraph upon proof of a violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10 which resulted in bodily injury to another person; or

(7) Attempts to cause significant bodily injury to another or causes significant bodily injury purposely or knowingly or, under circumstances manifesting extreme indifference to the value of human life recklessly causes such significant bodily injury; or

(8) Causes bodily injury by knowingly or purposely starting a fire or causing an explosion in violation of N.J.S.2C:17-1 which results in bodily injury to any emergency services personnel involved in fire suppression activities, rendering emergency medical services resulting from the fire or explosion or rescue operations, or rendering any necessary assistance at the scene of the fire or explosion, including any bodily injury sustained while responding to the scene of a reported fire or explosion. For purposes of this paragraph, "emergency services personnel" shall include, but not be limited to, any paid or volunteer firefighter, any person engaged in emergency first-aid or medical services and any law enforcement officer. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this paragraph upon proof of a violation of N.J.S.2C:17-1 which resulted in bodily injury to any emergency services personnel; or

(9) Knowingly, under circumstances manifesting extreme indifference to the value of human life, points or displays a firearm, as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer; or

(10) Knowingly points, displays or uses an imitation firearm, as defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer with the purpose to intimidate, threaten, or attempt to put the officer in fear of bodily injury or for any unlawful purpose; or

(11) Uses or activates a laser sighting system or device, or a system or device which, in the manner used, would cause a reasonable person to believe that it is a laser sighting system or device, against a law enforcement officer acting in the performance of the officer's duties while in uniform or exhibiting evidence of the officer's authority. As used in this paragraph, "laser sighting system or device" means any system or device that is integrated with or affixed to a firearm and emits a laser light beam that is used to assist in the sight alignment or aiming of the firearm; or

(12) Attempts to cause significant bodily injury or causes significant bodily injury purposely or knowingly or, under circumstances manifesting extreme indifference to the value of human life, recklessly causes significant bodily injury to a person who, with respect to the

actor, meets the definition of a victim of domestic violence, as defined in subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-19); or

(13) Knowingly or, under circumstances manifesting extreme indifference to the value of human life, recklessly obstructs the breathing or blood circulation of a person who, with respect to the actor, meets the definition of a victim of domestic violence, as defined in subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-19), by applying pressure on the throat or neck or blocking the nose or mouth of such person, thereby causing or attempting to cause bodily injury.

Aggravated assault under paragraphs (1) and (6) of subsection b. of this section is a crime of the second degree; under paragraphs (2), (7), (9), and (10) of subsection b. of this section is a crime of the third degree; under paragraphs (3) and (4) of subsection b. of this section is a crime of the fourth degree; and under paragraph (5) of subsection b. of this section is a crime of the third degree if the victim suffers bodily injury, otherwise it is a crime of the fourth degree, except:

any aggravated assault under subparagraph (g) of paragraph (5) of subsection b. of this section shall be a crime of the third degree; and

any aggravated assault of a law enforcement officer under subparagraph (a) of paragraph (5) of subsection b. of this section resulting in serious bodily injury shall be a crime of the second degree. Notwithstanding the provisions of N.J.S.2C:1-8 or any other law, a conviction for assaulting a law enforcement officer under subparagraph (a) of paragraph (5) of subsection b. of this section shall not merge with a conviction for any other criminal offense. A mandatory term of incarceration pursuant to section 2 of P.L.1997, c.117 (C.2C:43-7.2) shall not apply to a conviction for aggravated assault of a law enforcement officer under subparagraph (a) of paragraph (5) of subsection b. of this section unless the assault resulted in serious bodily injury to the officer. A person charged with aggravated assault of a law enforcement officer under subparagraph (a) of paragraph (5) of subsection b. of this section resulting in serious bodily injury shall be ineligible to apply for admission to a program of supervisory treatment pursuant to the provisions of N.J.S.2C:43-12 through 2C:43-22.

Aggravated assault under paragraph (8) of subsection b. of this section is a crime of the third degree if the victim suffers bodily injury; if the victim suffers significant bodily injury or serious bodily injury it is a crime of the second degree. Aggravated assault under paragraph (11) of subsection b. of this section is a crime of the third degree. Aggravated assault under paragraph (12) of subsection b. of this section is a crime of the third degree but the presumption of non-imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first offense of a crime of the third degree shall not apply. Aggravated assault under paragraph (13) of subsection b. of this section is a crime of the second degree.

c. (1) A person is guilty of assault by auto or vessel when the person drives a vehicle or vessel recklessly and causes either serious bodily injury or bodily injury to another. Assault by auto or vessel is a crime of the fourth degree if serious bodily injury results and is a disorderly persons offense if bodily injury results. Proof that the defendant was operating a hand-held wireless telephone while driving a motor vehicle in violation of section 1 of P.L.2003, c.310 (C.39:4-97.3) may give rise to an inference that the defendant was driving recklessly.

(2) Assault by auto or vessel is a crime of the third degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily injury results and is a crime of the fourth degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and bodily injury results.

(3) Assault by auto or vessel is a crime of the second degree if serious bodily injury results from the defendant operating the auto or vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) while:

(a) on any school property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or within 1,000 feet of such school property;

(b) driving through a school crossing as defined in R.S.39:1-1 if the municipality, by ordinance or resolution, has designated the school crossing as such; or

(c) driving through a school crossing as defined in R.S.39:1-1 knowing that juveniles are present if the municipality has not designated the school crossing as such by ordinance or resolution.

Assault by auto or vessel is a crime of the third degree if bodily injury results from the defendant operating the auto or vessel in violation of this paragraph.

A map or true copy of a map depicting the location and boundaries of the area on or within 1,000 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or school board produced pursuant to section 1 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under subparagraph (a) of paragraph (3) of this subsection.

It shall be no defense to a prosecution for a violation of subparagraph (a) or (b) of paragraph (3) of this subsection that the defendant was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property or while driving through a school crossing. Nor shall it be a defense to a prosecution under subparagraph (a) or (b) of paragraph (3) of this subsection that no juveniles were present on the school property or crossing zone at the time of the offense or that the school was not in session.

(4) Assault by auto or vessel is a crime of the third degree if the person purposely drives a vehicle in an aggressive manner directed at another vehicle and serious bodily injury results and is a crime of the fourth degree if the person purposely drives a vehicle in an aggressive manner directed at another vehicle and bodily injury results. For purposes of this paragraph, "driving a vehicle in an aggressive manner" shall include, but is not limited to, unexpectedly altering the speed of the vehicle, making improper or erratic traffic lane changes, disregarding traffic control devices, failing to yield the right of way, or following another vehicle too closely.

As used in this subsection, "vessel" means a means of conveyance for travel on water and propelled otherwise than by muscular power.

d. A person who is employed by a facility as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as defined in paragraph (1) or (2) of subsection a. of this section upon an institutionalized elderly person as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth degree.

e. (Deleted by amendment, P.L.2001, c.443)

f. A person who commits a simple assault as defined in paragraph (1), (2), or (3) of subsection a. of this section in the presence of a child under 16 years of age at a school or community sponsored youth sports event is guilty of a crime of the fourth degree. The defendant shall be strictly liable upon proof that the offense occurred, in fact, in the presence of a child under 16 years of age. It shall not be a defense that the defendant did not know that the child was present or reasonably believed that the child was 16 years of age or older. The provisions of this subsection shall not be construed to create any liability on the part of a participant in a youth sports event or to abrogate any immunity or defense available to a participant in a youth sports event. As used in this act, "school or community sponsored youth sports event" means a competition, practice, or instructional event involving one or more interscholastic sports teams or youth sports teams organized pursuant to a nonprofit or similar

charter or which are member teams in a youth league organized by or affiliated with a county or municipal recreation department and shall not include collegiate, semi-professional or professional sporting events.

4. N.J.S.2C:20-11 is amended to read as follows:

Shoplifting.

a. Definitions. The following definitions apply to this section:

(1) "Shopping cart" means those push carts of the type or types which are commonly provided by grocery stores, drug stores or other retail mercantile establishments for the use of the public in transporting commodities in stores and markets and, incidentally, from the stores to a place outside the store;

(2) "Store or other retail mercantile establishment" means a place where merchandise is displayed, held, stored or sold or offered to the public for sale;

(3) "Merchandise" means any goods, chattels, foodstuffs or wares of any type and description, regardless of the value thereof;

(4) "Merchant" means any owner or operator of any store or other retail mercantile establishment, or any agent, servant, employee, lessee, consignee, officer, director, franchisee or independent contractor of such owner or proprietor;

(5) "Person" means any individual or individuals, including an agent, servant or employee of a merchant where the facts of the situation so require;

(6) "Conceal" means to conceal merchandise so that, although there may be some notice of its presence, it is not visible through ordinary observation;

(7) "Full retail value" means the merchant's stated or advertised price of the merchandise;

(8) "Premises of a store or retail mercantile establishment" means and includes but is not limited to, the retail mercantile establishment; any common use areas in shopping centers and all parking areas set aside by a merchant or on behalf of a merchant for the parking of vehicles for the convenience of the patrons of such retail mercantile establishment;

(9) "Under-ring" means to cause the cash register or other sale recording device to reflect less than the full retail value of the merchandise;

(10) "Antishoplifting or inventory control device countermeasure" means any item or device which is designed, manufactured, modified, or altered to defeat any antishoplifting or inventory control device;

(11) "Organized retail theft enterprise" means any association of two or more persons who engage in the conduct of or are associated for the purpose of effectuating the transfer or sale of shoplifted merchandise.

b. Shoplifting. Shoplifting shall consist of any one or more of the following acts:

(1) For any person purposely to take possession of, carry away, transfer or cause to be carried away or transferred, any merchandise displayed, held, stored or offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the possession, use or benefit of such merchandise or converting the same to the use of such person without paying to the merchant the full retail value thereof.

(2) For any person purposely to conceal upon his person or otherwise any merchandise offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the processes, use or benefit of such merchandise or converting the same to the use of such person without paying to the merchant the value thereof.

(3) For any person purposely to alter, transfer or remove any label, price tag or marking indicia of value or any other markings which aid in determining value affixed to any

merchandise displayed, held, stored or offered for sale by any store or other retail mercantile establishment and to attempt to purchase such merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of all or some part of the value thereof.

(4) For any person purposely to transfer any merchandise displayed, held, stored or offered for sale by any store or other retail merchandise establishment from the container in or on which the same shall be displayed to any other container with intent to deprive the merchant of all or some part of the retail value thereof.

(5) For any person purposely to under-ring with the intention of depriving the merchant of the full retail value thereof.

(6) For any person purposely to remove a shopping cart from the premises of a store or other retail mercantile establishment without the consent of the merchant given at the time of such removal with the intention of permanently depriving the merchant of the possession, use or benefit of such cart.

c. Gradation. (1) Shoplifting constitutes a crime of the second degree under subsection b. of this section if the full retail value of the merchandise is \$75,000 or more, or the offense is committed in furtherance of or in conjunction with an organized retail theft enterprise and the full retail value of the merchandise is \$1,000 or more.

(2) Shoplifting constitutes a crime of the third degree under subsection b. of this section if the full retail value of the merchandise exceeds \$500 but is less than \$75,000, or the offense is committed in furtherance of or in conjunction with an organized retail theft enterprise and the full retail value of the merchandise is less than \$1,000.

(3) Shoplifting constitutes a crime of the fourth degree under subsection b. of this section if the full retail value of the merchandise is at least \$200 but does not exceed \$500.

(4) Shoplifting is a disorderly persons offense under subsection b. of this section if the full retail value of the merchandise is less than \$200.

The value of the merchandise involved in a violation or in multiple violations of this section may be aggregated in determining the grade of the offense where the acts or conduct constituting a violation were committed pursuant to one scheme or course of conduct, whether from the same person or several persons and regardless of the time period over which the scheme or course of conduct took place, or were committed in furtherance of or in conjunction with an organized retail theft enterprise.

Additionally, notwithstanding the term of imprisonment provided in N.J.S.2C:43-6 or 2C:43-8, any person convicted of a shoplifting offense shall be sentenced to perform community service as follows: for a first offense, at least ten days of community service; for a second offense, at least 15 days of community service; and for a third or subsequent offense, a maximum of 25 days of community service and any person convicted of a third or subsequent shoplifting offense shall serve a minimum term of imprisonment of not less than 90 days.

d. Presumptions. Any person purposely concealing unpurchased merchandise of any store or other retail mercantile establishment, either on the premises or outside the premises of such store or other retail mercantile establishment, shall be prima facie presumed to have so concealed such merchandise with the intention of depriving the merchant of the possession, use or benefit of such merchandise without paying the full retail value thereof, and the finding of such merchandise concealed upon the person or among the belongings of such person shall be prima facie evidence of purposeful concealment; and if such person conceals, or causes to be concealed, such merchandise upon the person or among the belongings of another, the finding of the same shall also be prima facie evidence of willful concealment on the part of the person so concealing such merchandise.

e. A law enforcement officer, or a special officer, or a merchant, who has probable cause for believing that a person has willfully concealed unpurchased merchandise and that he can recover the merchandise by taking the person into custody, may, for the purpose of attempting to effect recovery thereof, take the person into custody and detain him in a reasonable manner for not more than a reasonable time, and the taking into custody by a law enforcement officer or special officer or merchant shall not render such person criminally or civilly liable in any manner or to any extent whatsoever.

Any law enforcement officer may arrest without warrant any person he has probable cause for believing has committed the offense of shoplifting as defined in this section.

A merchant who causes the arrest of a person for shoplifting, as provided for in this section, shall not be criminally or civilly liable in any manner or to any extent whatsoever where the merchant has probable cause for believing that the person arrested committed the offense of shoplifting.

f. Any person who possesses or uses any antishoplifting or inventory control device countermeasure within any store or other retail mercantile establishment is guilty of a disorderly persons offense.

C.2C:20-11.3 Extended imprisonment if previously convicted on two or more separate offenses, retail theft.

5. a. Upon request of the prosecutor, a person who has been convicted of shoplifting pursuant to N.J.S.2C:20-11, receiving stolen property pursuant to N.J.S.2C:20-7, leader of organized retail theft enterprise pursuant to section 2 of P.L.2006, c.56 (C.2C:20-11.2), or theft as defined in chapter 20 of Title 2C of the New Jersey Statutes that involves the stealing of merchandise from a retail mercantile establishment shall be sentenced to an extended term of imprisonment pursuant to N.J.S.2C:43-7 if the person has previously been convicted on two or more prior and separate occasions, regardless of the dates of the convictions, in accordance with the provisions of subsection b. of this section, for a violation of paragraphs (1) or (2) of subsection c. of N.J.S.2C:20-11, N.J.S.2C:20-7, section 2 of P.L.2006, c.56 (C.2C:20-11.2), or theft as defined in chapter 20 of Title 2C of the New Jersey Statutes involving the stealing of merchandise, or a crime under any statute of the United States, this State, or any other state for a crime that is substantially equivalent to a violation of shoplifting, leader of organized retail theft enterprise, or theft involving merchandise.

b. The provisions of this section shall not apply unless the prior convictions are for crimes committed on separate occasions and the crime for which the defendant is being sentenced was committed either:

(1) within 10 years of the date of the defendant's last release from confinement for the commission of any crime; or

(2) within 10 years of the date of the commission of the most recent of the crimes enumerated in subsection a. of this section for which the defendant has a prior conviction.

c. Prior convictions shall be defined and proven in accordance with N.J.S.2C:44-4.

d. The court shall not impose a sentence of imprisonment pursuant to this section unless the ground therefor has been established at a hearing after the conviction of the defendant and on written notice to the defendant of the ground proposed. The defendant shall have the right to hear and controvert the evidence against him and to offer evidence upon the issue.

C.52:17B-4.13 Attorney General, steps to combat organized retail theft.

6. a. The Attorney General shall undertake such steps as the Attorney General deems appropriate to promote the effective investigation, prosecution, and deterrence of organized

retail theft in this State, which may include establishing a retail theft unit, task force, or other appropriate office or initiative in the Department of Law and Public Safety to combat organized retail theft or the implementation of a Statewide policy to direct and coordinate State and local law enforcement efforts to investigate and prosecute organized retail theft.

b. (1) In a manner prescribed by the Attorney General, a county prosecutor, law enforcement officer, special officer, or retail merchant may notify the Division of Criminal Justice, or other entity within the Department of Law and Public Safety designated by the Attorney General to receive notice, of allegations that a crime of retail theft was committed.

(2) In a manner prescribed by the Attorney General, a county prosecutor shall notify the Division of Criminal Justice, or other entity within the Department of Law and Public Safety designated by the Attorney General to receive notice, that a crime of retail theft was allegedly committed by a defendant if:

(a) there is probable cause that the defendant has committed two or more acts of retail theft in the State;

(b) there is probable cause that the defendant has committed one or more acts of retail theft in this State and one or more acts of retail theft in another state; or

(c) the defendant has previously been convicted of retail theft in this State or another state.

c. In addition to any other authority provided under the law, the Division of Criminal Justice shall have the authority to:

(1) investigate and, if warranted, prosecute cases concerning acts of retail theft; and

(2) assist county prosecutors in the investigation and prosecution of acts of retail theft.

d. As used in this section, “retail theft” shall include the crimes of shoplifting pursuant to N.J.S.2C:20-11; leader of organized retail theft enterprise pursuant to section 2 of P.L.2006, c.56 (C.2C:20-11.2); or theft as defined in chapter 20 of Title 2C of the New Jersey Statutes that involves the stealing of merchandise.

7. Section 19 of P.L.1987, c.76 (C.54:52-9) is amended to read as follows:

C.54:52-9 Failure to pay.

19. a. A person is guilty of a crime if he fails to pay or turn over when due any tax, fee, penalty, or interest or any part thereof required to be paid pursuant to the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., as amended and supplemented, or any State tax law, with the intent to evade, avoid, or otherwise not make timely payment or deposit of any tax, fee, penalty, or interest or any part thereof. The crime shall be of the second degree if any portion of the tax, fee, penalty, or interest or any part thereof required to be paid or turned over was accrued through conduct committed in violation of section 2 of P.L.2006, c.56 (C.2C:20-11.2), otherwise it shall be a crime of the third degree.

b. The fact that any payment was made with a subsequently dishonored negotiable instrument shall constitute prima facie evidence that the actor failed to pay within the meaning of subsection a. of this section, and the trier of fact may draw a permissive inference therefrom that the actor did not intend to make the payment.

8. Section 25 of P.L.1987, c.76 (C.54:52-15) is amended to read as follows:

C.54:52-15 Failure to turn over collected, withheld tax.

25. A person is guilty of a crime of the third degree if, after having collected or withheld taxes as required by any State tax law, whether or not the person is authorized, licensed, or registered to collect or withhold taxes, the person purposely fails to turn over the taxes to the

Director of the Division of Taxation in the manner and at the time prescribed by law. The crime shall be of the second degree if the amount of the tax collected or withheld is \$75,000.00 or more, or if the taxes the person failed to turn over to the Director of the Division of Taxation were collected or withheld as part of an organized retail theft enterprise in violation of section 2 of P.L.2006, c.56 (C.2C:20-11.2).

9. Section 1 of P.L.2021, c.431 (C.56:8-110.1) is amended to read as follows:

C.56:8-110.1 Gift card fraud; detection, prevention; employee training; definitions.

1. a. Every retail mercantile establishment in this State that displays gift cards for sale shall train employees on how to identify and respond to gift card fraud. A retail mercantile establishment shall conduct the training in accordance with guidelines issued pursuant to section 2 of P.L.2021, c.431 (C.56:8-110.2).

b. A retail mercantile establishment that violates the provisions of this section or section 10 of P.L.2025, c.39 (C.56:8-110.3) shall be subject to a civil penalty of \$1,000, which may be collected and enforced by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety in a summary proceeding pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court shall have jurisdiction of proceedings for the enforcement of the penalty provided by this section.

A violation of this section shall not be considered an unlawful practice in violation of P.L.1960, c.39 (C.56:8-1 et seq.).

c. As used in P.L.2021, c.431 (C.56:8-110.1 et seq.), and section 10 of P.L.2025, c.39 (C.56:8-110.3):

“Gift card” means a tangible device, whereon is embedded or encoded in an electronic or other format a value issued in exchange for payment, which promises to provide to the bearer merchandise of equal value to the remaining balance of the device. A “gift card” shall not include a stored value reloadable card as defined in subsection k. of section 5 of P.L.2010, c.25 (C.46:30B-42.1).

“Merchandise” means any objects, wares, goods, commodities, services, or anything offered, directly or indirectly, to the public for sale.

“Retail mercantile establishment” means any place of business where merchandise is exposed or offered for sale at retail to members of the consuming public.

“Third-Party Gift Card Reseller” means a merchant who, without authorization from or affiliation with the business entity issuing a gift card, is engaged in the business of:

- (1) buying gift cards on behalf of consumers; or
- (2) reselling gift cards to consumers.

C.56:8-110.3 Division of Consumer Affairs, Internet notice, gift card scam information.

10. a. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall create and make available on its Internet website a notice to customers of retail mercantile establishments which shall include, but not be limited to:

- (1) the risk of gift card scams; and
- (2) available assistance, including from the Division of Consumer Affairs, a consumer may seek if the consumer suspects they may be a victim of a gift card scam.

b. (1) A retail mercantile establishment may not knowingly sell a gift card to a consumer unless the retail mercantile establishment conspicuously displays a notice in a form as prescribed by the Director of the Division of Consumer Affairs in accordance with subsection a. of this section.

(2) For in-person sales, the notice shall be placed at or near the physical location where the gift card is displayed for sale or where the gift card sales transaction takes place.

(3) For online sales of gift cards, the notice shall be displayed on the webpage where the gift card is offered for sale or before the sale is finalized.

c. Except as otherwise provided in subsection d. of this section, a retail mercantile establishment may not display or sell a gift card unless:

(1) the gift card or its packaging includes in a manner visible to potential purchasers when on display a warning that states “Do not sell or purchase if the gift card or its packaging has been broken or indicates tampering” or that uses substantially similar language;

(2) the gift card, if enclosed in packaging, is sealed in a manner that is not easily opened, removed, or replaced without signs of tampering; and

(3) regardless of whether the gift card is or is not enclosed in packaging, all visible numbers such as a card number, CVV number, or a PIN number that can be used for balance inquiries or manual entry redemption are either fully concealed or covered, or otherwise made unavailable prior to sale or, only if the gift card is enclosed in packaging that is designed to make the gift card more secure than full concealment or covering otherwise would, are partially concealed or covered.

d. A retail mercantile establishment may display or sell a gift card that does not conform to the requirements of paragraphs (2) and (3) of subsection c. of this section if:

(1) the gift card is a chip-enabled, numberless card that is activated by a consumer after registering the card on the card issuer’s website;

(2) the gift card is:

(a) sold exclusively by a retail mercantile establishment for use only at the retail mercantile establishment or a group of affiliated retail mercantile establishments for use at the retail mercantile establishments of the affiliated establishments; and

(b) is secured in a physical location within the retail mercantile establishment that is accessible only by an employee, or

(3) the gift card or its packaging:

(a) incorporates technology that is designed to prevent activation if the gift card or its packaging has been subjected to tampering; or

(b) incorporates technology that is designed to detect and prevent unauthorized redemption.

e. (1) When a third-party gift card reseller buys or sells a gift card as part of a transaction occurring in this State, the reseller shall record and, for at least three years, maintain a copy of the following information as applicable:

(a) the date of the transaction;

(b) the name of the person who conducted the transaction;

(c) the name, age, and address of the seller of the gift card;

(d) the seller’s and consumer’s driver’s license number or identification card number;

(e) a description of the purchased gift card, including, but not limited to, the retailer for which the gift card is intended for use and the gift card number;

(f) the specific amount issued on the gift card;

(g) the transaction price;

(h) the signature of the consumer.

(2) The information recorded and maintained pursuant to this section shall be chronologically written in ink or logged into a secure database, software system, or other similar technology platform.

(3) Except as provided in paragraph (4) of this subsection, recorded information may not be destroyed, altered, or erased.

(4) A handwritten correction may be made to an entry of information by drawing a line of ink through the entry in a manner that retains legibility.

(5) Information recorded pursuant to this subsection shall be open to inspection by any duly authorized law enforcement officer in this State during the ordinary business hours of the third-party gift card reseller or at other reasonable time.

f. A third-party gift card reseller, including an agent or employee of the third-party gift card reseller may not:

(1) fail to make an entry of or falsify, destroy, or remove any information required to be recorded and maintained pursuant to this section;

(2) refuse to allow any duly authorized law enforcement officer in this State to inspect a record of information or the gift cards in the reseller's possession; or

(3) fail to maintain a record in pursuant to this section.

g. Upon request of a law enforcement agency conducting an investigation into allegations of theft of one or more gift cards, the issuer of the gift cards or the issuer's agents shall preserve and provide law enforcement with all relevant evidence so requested.

11. This act shall take effect immediately, except that sections 9 and 10 shall remain inoperative until October 1, 2025, but the Director of the Division of Consumer Affairs may take such anticipatory action as may be necessary to effectuate the provisions of those sections, and section 6 shall take effect on the 180 day after the date of enactment.

Approved April 1, 2025.

SENATE, No. 3587

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED SEPTEMBER 19, 2024

Sponsored by:

Senator JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

Senator HOLLY T. SCHEPISI

District 39 (Bergen)

Co-Sponsored by:

**Senators Bramnick, A.M.Bucco, Henry, Corrado, Stack, Greenstein,
O'Scanlon, Gopal, Amato and Diegnan**

SYNOPSIS

Concerns retail theft, establishes retail theft unit, and appropriates \$1 million.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/14/2025)

1 AN ACT concerning retail theft, amending and supplementing
2 various parts of the statutory law, and making an appropriation.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 7 of P.L.1981, c.167 (C.2C:20-7.1) is amended to
8 read as follows:

9 7. Fencing. a. Possession of altered property. Any dealer in
10 property who knew or should have known that the identifying
11 features such as serial numbers and permanently affixed labels of
12 property in his possession have been removed or altered without the
13 consent of the manufacturer is guilty of possession of altered
14 property. It is a defense to a prosecution under this subsection that
15 a person lawfully possesses the usual indicia of ownership in
16 addition to mere possession.

17 b. (1) Dealing in stolen property. A person is guilty of dealing in
18 stolen property if he traffics in, or initiates, organizes, plans,
19 finances, directs, manages or supervises trafficking in stolen
20 property, including through the use of an online platform via any
21 electronic device or through a social media site. This paragraph
22 shall not apply to dealing in stolen property consisting of a
23 domestic companion animal, addressed in paragraph (2) of this
24 subsection.

25 (2) Dealing in stolen domestic companion animals. A person is
26 guilty of dealing in stolen domestic companion animals if he
27 trafficks in, or initiates, organizes, plans, finances, directs, manages
28 or supervises trafficking in stolen property consisting of a domestic
29 companion animal.

30 c. (1) For any violation of this section, other than dealing in
31 stolen domestic companion animals, the value of the property
32 involved in the violation shall be determined by the trier of fact for
33 the purpose of determining the grade of the offense, and the value
34 of the property involved in the violation may be aggregated in
35 determining the grade of the offense where the acts or conduct
36 constituting a violation were committed pursuant to one scheme or
37 course of conduct, whether from the same person or several
38 persons.

39 (2) A violation of this section for dealing in stolen domestic
40 companion animals constitutes a crime of the third degree.

41 d. It is an affirmative defense to a prosecution under this
42 section that the actor:

43 (1) Was unaware that the property or service was that of
44 another;

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (2) Acted under an honest claim of right to the property or
2 service involved or that he had a right to acquire or dispose of it as
3 he did.

4 e. In addition to the presumptions contained in subsection b. of
5 N.J.S.2C:20-7, the following presumptions are available in the
6 prosecution for a fencing offense:

7 (1) Proof of the purchase or sale of property at a price
8 substantially below its fair market value, unless satisfactorily
9 explained, gives rise to an inference that the person buying or
10 selling the property knew that it had been stolen;

11 (2) Proof of the purchase or sale of property by a dealer in that
12 property, out of the regular course of business, or without the usual
13 indicia of ownership other than mere possession, or the property or
14 the job lot of which it is a part was bought, received, possessed or
15 controlled in broken succession of title, so that it cannot be traced,
16 by appropriate documents, in unbroken succession to the
17 manufacturer, in all cases where the regular course of business
18 reasonably indicates records of purchase, transfer or sale, unless
19 satisfactorily explained, gives rise to an inference that the person
20 buying or selling the property knew that it had been stolen; and

21 (3) Proof that a person buying or selling property of the sort
22 received obtained such property without having ascertained by
23 reasonable inquiry that the person from whom he obtained it had a
24 legal right to possess or control it gives rise to an inference that
25 such person knew that it had been stolen.

26 (cf: P.L.2017, c.156, s.1)

27

28 2. (New section) a. A person is guilty of fostering the sale of
29 stolen property, a disorderly persons offense, if the person:

30 (1) hosts, advertises, or otherwise assists in the sale of stolen
31 goods, including through an online platform; and

32 (2) knows or reasonably should know that the property was
33 stolen. The requisite knowledge is presumed in the case of a person
34 who undertook a substantial and unjustifiable risk that the persons
35 actions would result in the sale of stolen property.

36 b. As defined in this act:

37 “Online platform” means any public-facing Internet website,
38 Internet web application, or computer or mobile application,
39 including a social networking website or publication.

40 “Sale” means any sale, transfer, exchange, barter, or offer for
41 sale and distribution, in any manner or by any means whatsoever,
42 including, but not limited to, via an online platform.

43 “Stolen property” shall have the same meaning as defined
44 pursuant to N.J.S.2C:20-1.

45

46 3. N.J.S.2C:12-1 is amended as follows:

47 2C:12-1. Assault. a. Simple assault. A person is guilty of
48 assault if the person:

- 1 (1) Attempts to cause or purposely, knowingly or recklessly
2 causes bodily injury to another; or
- 3 (2) Negligently causes bodily injury to another with a deadly
4 weapon; or
- 5 (3) Attempts by physical menace to put another in fear of
6 imminent serious bodily injury.
- 7 Simple assault is a disorderly persons offense unless committed
8 in a fight or scuffle entered into by mutual consent, in which case it
9 is a petty disorderly persons offense.
- 10 b. Aggravated assault. A person is guilty of aggravated assault
11 if the person:
- 12 (1) Attempts to cause serious bodily injury to another, or causes
13 injury purposely or knowingly or under circumstances manifesting
14 extreme indifference to the value of human life recklessly causes
15 such injury; or
- 16 (2) Attempts to cause or purposely or knowingly causes bodily
17 injury to another with a deadly weapon; or
- 18 (3) Recklessly causes bodily injury to another with a deadly
19 weapon; or
- 20 (4) Knowingly under circumstances manifesting extreme
21 indifference to the value of human life points a firearm, as defined
22 in subsection f. of N.J.S.2C:39-1, at or in the direction of another,
23 whether or not the actor believes it to be loaded; or
- 24 (5) Commits a simple assault as defined in paragraph (1), (2), or
25 (3) of subsection a. of this section upon:
- 26 (a) Any law enforcement officer acting in the performance of
27 the officer's duties while in uniform or exhibiting evidence of
28 authority or because of the officer's status as a law enforcement
29 officer; or
- 30 (b) Any paid or volunteer firefighter acting in the performance
31 of the firefighter's duties while in uniform or otherwise clearly
32 identifiable as being engaged in the performance of the duties of a
33 firefighter; or
- 34 (c) Any person engaged in emergency first-aid or medical
35 services acting in the performance of the person's duties while in
36 uniform or otherwise clearly identifiable as being engaged in the
37 performance of emergency first-aid or medical services; or
- 38 (d) Any school board member, school administrator, teacher,
39 school bus driver, or other employee of a public or nonpublic
40 school or school board while clearly identifiable as being engaged
41 in the performance of the person's duties or because of the person's
42 status as a member or employee of a public or nonpublic school or
43 school board or any school bus driver employed by an operator
44 under contract to a public or nonpublic school or school board while
45 clearly identifiable as being engaged in the performance of the
46 person's duties or because of the person's status as a school bus
47 driver; or

- 1 (e) Any employee of the Division of Child Protection and
2 Permanency while clearly identifiable as being engaged in the
3 performance of the employee's duties or because of the status as an
4 employee of the division; or
- 5 (f) Any justice of the Supreme Court, judge of the Superior
6 Court, judge of the Tax Court or municipal judge while clearly
7 identifiable as being engaged in the performance of judicial duties
8 or because of the status as a member of the judiciary; or
- 9 (g) Any operator of a motorbus or the operator's supervisor or
10 any employee of a rail passenger service while clearly identifiable
11 as being engaged in the performance of the person's duties or
12 because of the status as an operator of a motorbus or as the
13 operator's supervisor or as an employee of a rail passenger service;
14 or
- 15 (h) Any Department of Corrections employee, county
16 correctional police officer, juvenile correctional police officer, State
17 juvenile facility employee, juvenile detention staff member,
18 juvenile detention officer, probation officer or any sheriff,
19 undersheriff, or sheriff's officer acting in the performance of the
20 person's duties while in uniform or exhibiting evidence of the
21 person's authority or because of the status as a Department of
22 Corrections employee, county correctional police officer, juvenile
23 correctional police officer, State juvenile facility employee, juvenile
24 detention staff member, juvenile detention officer, probation
25 officer, sheriff, undersheriff, or sheriff's officer; or
- 26 (i) Any employee, including any person employed under
27 contract, of a utility company as defined in section 2 of P.L.1971,
28 c.224 (C.2A:42-86) or a cable television company subject to the
29 provisions of the "Cable Television Act," P.L.1972, c.186
30 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in
31 the performance of the employee's duties in regard to connecting,
32 disconnecting, or repairing or attempting to connect, disconnect, or
33 repair any gas, electric, or water utility, or cable television or
34 telecommunication service; or
- 35 (j) Any health care worker employed by a licensed health care
36 facility to provide direct patient care, any health care professional
37 licensed or otherwise authorized pursuant to Title 26 or Title 45 of
38 the Revised Statutes to practice a health care profession, except a
39 direct care worker at a State or county psychiatric hospital or State
40 developmental center or veterans' memorial home, while clearly
41 identifiable as being engaged in the duties of providing direct
42 patient care or practicing the health care profession; or
- 43 (k) Any direct care worker at a State or county psychiatric
44 hospital or State developmental center or veterans' memorial home,
45 while clearly identifiable as being engaged in the duties of
46 providing direct patient care or practicing the health care
47 profession, provided that the actor is not a patient or resident at the

1 facility who is classified by the facility as having a mental illness or
2 developmental disability; or

3 (1) Any employee of a retail mercantile establishment.
4 “Employee of a retail mercantile establishment” means any person,
5 while clearly identifiable as being engaged in the performance of
6 the person’s duties, engaged in the sale, display, or offering for sale
7 of consumer commodities and who is employed by any place of
8 business where merchandise is displayed, held, stored, or sold or
9 offered at retail to members of consuming public; or

10 (6) Causes bodily injury to another person while fleeing or
11 attempting to elude a law enforcement officer in violation of
12 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
13 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any
14 other provision of law to the contrary, a person shall be strictly
15 liable for a violation of this paragraph upon proof of a violation of
16 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
17 violation of subsection c. of N.J.S.2C:20-10 which resulted in
18 bodily injury to another person; or

19 (7) Attempts to cause significant bodily injury to another or
20 causes significant bodily injury purposely or knowingly or, under
21 circumstances manifesting extreme indifference to the value of
22 human life recklessly causes such significant bodily injury; or

23 (8) Causes bodily injury by knowingly or purposely starting a
24 fire or causing an explosion in violation of N.J.S.2C:17-1 which
25 results in bodily injury to any emergency services personnel
26 involved in fire suppression activities, rendering emergency
27 medical services resulting from the fire or explosion or rescue
28 operations, or rendering any necessary assistance at the scene of the
29 fire or explosion, including any bodily injury sustained while
30 responding to the scene of a reported fire or explosion. For
31 purposes of this paragraph, "emergency services personnel" shall
32 include, but not be limited to, any paid or volunteer firefighter, any
33 person engaged in emergency first-aid or medical services and any
34 law enforcement officer. Notwithstanding any other provision of
35 law to the contrary, a person shall be strictly liable for a violation of
36 this paragraph upon proof of a violation of N.J.S.2C:17-1 which
37 resulted in bodily injury to any emergency services personnel; or

38 (9) Knowingly, under circumstances manifesting extreme
39 indifference to the value of human life, points or displays a firearm,
40 as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of
41 a law enforcement officer; or

42 (10) Knowingly points, displays or uses an imitation firearm, as
43 defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a
44 law enforcement officer with the purpose to intimidate, threaten, or
45 attempt to put the officer in fear of bodily injury or for any unlawful
46 purpose; or

47 (11) Uses or activates a laser sighting system or device, or a
48 system or device which, in the manner used, would cause a

1 reasonable person to believe that it is a laser sighting system or
2 device, against a law enforcement officer acting in the performance
3 of the officer's duties while in uniform or exhibiting evidence of the
4 officer's authority. As used in this paragraph, "laser sighting system
5 or device" means any system or device that is integrated with or
6 affixed to a firearm and emits a laser light beam that is used to
7 assist in the sight alignment or aiming of the firearm; or

8 (12) Attempts to cause significant bodily injury or causes
9 significant bodily injury purposely or knowingly or, under
10 circumstances manifesting extreme indifference to the value of
11 human life, recklessly causes significant bodily injury to a person
12 who, with respect to the actor, meets the definition of a victim of
13 domestic violence, as defined in subsection d. of section 3 of
14 P.L.1991, c.261 (C.2C:25-19); or

15 (13) Knowingly or, under circumstances manifesting extreme
16 indifference to the value of human life, recklessly obstructs the
17 breathing or blood circulation of a person who, with respect to the
18 actor, meets the definition of a victim of domestic violence, as
19 defined in subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-
20 19), by applying pressure on the throat or neck or blocking the nose
21 or mouth of such person, thereby causing or attempting to cause
22 bodily injury.

23 Aggravated assault under paragraphs (1) and (6) of subsection b.
24 of this section is a crime of the second degree; under paragraphs
25 (2), (7), (9), and (10) of subsection b. of this section is a crime of
26 the third degree; under paragraphs (3) and (4) of subsection b. of
27 this section is a crime of the fourth degree; and under paragraph (5)
28 of subsection b. of this section is a crime of the third degree if the
29 victim suffers bodily injury, otherwise it is a crime of the fourth
30 degree, except that any aggravated assault under subparagraph (g)
31 of paragraph (5) of subsection b. of this section shall be a crime of
32 the third degree. Aggravated assault under paragraph (8) of
33 subsection b. of this section is a crime of the third degree if the
34 victim suffers bodily injury; if the victim suffers significant bodily
35 injury or serious bodily injury it is a crime of the second degree.
36 Aggravated assault under paragraph (11) of subsection b. of this
37 section is a crime of the third degree. Aggravated assault under
38 paragraph (12) of subsection b. of this section is a crime of the third
39 degree but the presumption of non-imprisonment set forth in
40 subsection e. of N.J.S.2C:44-1 for a first offense of a crime of the
41 third degree shall not apply. Aggravated assault under paragraph
42 (13) of subsection b. of this section is a crime of the second degree.

43 c. (1) A person is guilty of assault by auto or vessel when the
44 person drives a vehicle or vessel recklessly and causes either
45 serious bodily injury or bodily injury to another. Assault by auto or
46 vessel is a crime of the fourth degree if serious bodily injury results
47 and is a disorderly persons offense if bodily injury results. Proof
48 that the defendant was operating a hand-held wireless telephone

1 while driving a motor vehicle in violation of section 1 of P.L.2003,
2 c.310 (C.39:4-97.3) may give rise to an inference that the defendant
3 was driving recklessly.

4 (2) Assault by auto or vessel is a crime of the third degree if the
5 person drives the vehicle while in violation of R.S.39:4-50 or
6 section 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily
7 injury results and is a crime of the fourth degree if the person drives
8 the vehicle while in violation of R.S.39:4-50 or section 2 of
9 P.L.1981, c.512 (C.39:4-50.4a) and bodily injury results.

10 (3) Assault by auto or vessel is a crime of the second degree if
11 serious bodily injury results from the defendant operating the auto
12 or vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981,
13 c.512 (C.39:4-50.4a) while:

14 (a) on any school property used for school purposes which is
15 owned by or leased to any elementary or secondary school or school
16 board, or within 1,000 feet of such school property;

17 (b) driving through a school crossing as defined in R.S.39:1-1 if
18 the municipality, by ordinance or resolution, has designated the
19 school crossing as such; or

20 (c) driving through a school crossing as defined in R.S.39:1-1
21 knowing that juveniles are present if the municipality has not
22 designated the school crossing as such by ordinance or resolution.

23 Assault by auto or vessel is a crime of the third degree if bodily
24 injury results from the defendant operating the auto or vessel in
25 violation of this paragraph.

26 A map or true copy of a map depicting the location and
27 boundaries of the area on or within 1,000 feet of any property used
28 for school purposes which is owned by or leased to any elementary
29 or secondary school or school board produced pursuant to section 1
30 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under
31 subparagraph (a) of paragraph (3) of this subsection.

32 It shall be no defense to a prosecution for a violation of
33 subparagraph (a) or (b) of paragraph (3) of this subsection that the
34 defendant was unaware that the prohibited conduct took place while
35 on or within 1,000 feet of any school property or while driving
36 through a school crossing. Nor shall it be a defense to a prosecution
37 under subparagraph (a) or (b) of paragraph (3) of this subsection
38 that no juveniles were present on the school property or crossing
39 zone at the time of the offense or that the school was not in session.

40 (4) Assault by auto or vessel is a crime of the third degree if the
41 person purposely drives a vehicle in an aggressive manner directed
42 at another vehicle and serious bodily injury results and is a crime of
43 the fourth degree if the person purposely drives a vehicle in an
44 aggressive manner directed at another vehicle and bodily injury
45 results. For purposes of this paragraph, "driving a vehicle in an
46 aggressive manner" shall include, but is not limited to,
47 unexpectedly altering the speed of the vehicle, making improper or
48 erratic traffic lane changes, disregarding traffic control devices,

1 failing to yield the right of way, or following another vehicle too
2 closely.

3 As used in this subsection, "vessel" means a means of
4 conveyance for travel on water and propelled otherwise than by
5 muscular power.

6 d. A person who is employed by a facility as defined in section
7 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as
8 defined in paragraph (1) or (2) of subsection a. of this section upon
9 an institutionalized elderly person as defined in section 2 of
10 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
11 degree.

12 e. (Deleted by amendment, P.L.2001, c.443).

13 f. A person who commits a simple assault as defined in
14 paragraph (1), (2), or (3) of subsection a. of this section in the
15 presence of a child under 16 years of age at a school or community
16 sponsored youth sports event is guilty of a crime of the fourth
17 degree. The defendant shall be strictly liable upon proof that the
18 offense occurred, in fact, in the presence of a child under 16 years
19 of age. It shall not be a defense that the defendant did not know
20 that the child was present or reasonably believed that the child was
21 16 years of age or older. The provisions of this subsection shall not
22 be construed to create any liability on the part of a participant in a
23 youth sports event or to abrogate any immunity or defense available
24 to a participant in a youth sports event. As used in this act, "school
25 or community sponsored youth sports event" means a competition,
26 practice, or instructional event involving one or more
27 interscholastic sports teams or youth sports teams organized
28 pursuant to a nonprofit or similar charter or which are member
29 teams in a youth league organized by or affiliated with a county or
30 municipal recreation department and shall not include collegiate,
31 semi-professional or professional sporting events.

32 (cf: P.L.2021, c.352, s.1)

33

34 4. N.J.S.2C:20-11 is amended to read as follows:

35 a. Definitions. The following definitions apply to this section:

36 (1) "Shopping cart" means those push carts of the type or types
37 which are commonly provided by grocery stores, drug stores or
38 other retail mercantile establishments for the use of the public in
39 transporting commodities in stores and markets and, incidentally,
40 from the stores to a place outside the store;

41 (2) "Store or other retail mercantile establishment" means a
42 place where merchandise is displayed, held, stored or sold or
43 offered to the public for sale;

44 (3) "Merchandise" means any goods, chattels, foodstuffs or
45 wares of any type and description, regardless of the value thereof;

46 (4) "Merchant" means any owner or operator of any store or
47 other retail mercantile establishment, or any agent, servant,

1 employee, lessee, consignee, officer, director, franchisee or
2 independent contractor of such owner or proprietor;

3 (5) "Person" means any individual or individuals, including an
4 agent, servant or employee of a merchant where the facts of the
5 situation so require;

6 (6) "Conceal" means to conceal merchandise so that, although
7 there may be some notice of its presence, it is not visible through
8 ordinary observation;

9 (7) "Full retail value" means the merchant's stated or advertised
10 price of the merchandise;

11 (8) "Premises of a store or retail mercantile establishment"
12 means and includes but is not limited to, the retail mercantile
13 establishment; any common use areas in shopping centers and all
14 parking areas set aside by a merchant or on behalf of a merchant for
15 the parking of vehicles for the convenience of the patrons of such
16 retail mercantile establishment;

17 (9) "Under-ring" means to cause the cash register or other sale
18 recording device to reflect less than the full retail value of the
19 merchandise;

20 (10) "Antishoplifting or inventory control device
21 countermeasure" means any item or device which is designed,
22 manufactured, modified, or altered to defeat any antishoplifting or
23 inventory control device;

24 (11) "Organized retail theft enterprise" means any association of
25 two or more persons who engage in the conduct of or are associated
26 for the purpose of effectuating the transfer or sale of shoplifted
27 merchandise.

28 b. Shoplifting. Shoplifting shall consist of any one or more of
29 the following acts:

30 (1) For any person purposely to take possession of, carry away,
31 transfer or cause to be carried away or transferred, any merchandise
32 displayed, held, stored or offered for sale by any store or other retail
33 mercantile establishment with the intention of depriving the
34 merchant of the possession, use or benefit of such merchandise or
35 converting the same to the use of such person without paying to the
36 merchant the full retail value thereof.

37 (2) For any person purposely to conceal upon his person or
38 otherwise any merchandise offered for sale by any store or other
39 retail mercantile establishment with the intention of depriving the
40 merchant of the processes, use or benefit of such merchandise or
41 converting the same to the use of such person without paying to the
42 merchant the value thereof.

43 (3) For any person purposely to alter, transfer or remove any
44 label, price tag or marking indicia of value or any other markings
45 which aid in determining value affixed to any merchandise
46 displayed, held, stored or offered for sale by any store or other retail
47 mercantile establishment and to attempt to purchase such
48 merchandise personally or in consort with another at less than the

1 full retail value with the intention of depriving the merchant of all
2 or some part of the value thereof.

3 (4) For any person purposely to transfer any merchandise
4 displayed, held, stored or offered for sale by any store or other retail
5 merchandise establishment from the container in or on which the
6 same shall be displayed to any other container with intent to deprive
7 the merchant of all or some part of the retail value thereof.

8 (5) For any person purposely to under-ring with the intention of
9 depriving the merchant of the full retail value thereof.

10 (6) For any person purposely to remove a shopping cart from the
11 premises of a store or other retail mercantile establishment without
12 the consent of the merchant given at the time of such removal with
13 the intention of permanently depriving the merchant of the
14 possession, use or benefit of such cart.

15 c. Gradation. (1) Shoplifting constitutes a crime of the second
16 degree under subsection b. of this section if the full retail value of
17 the merchandise is \$75,000 or more, or the offense is committed in
18 furtherance of or in conjunction with an organized retail theft
19 enterprise and the full retail value of the merchandise is \$1,000 or
20 more.

21 (2) Shoplifting constitutes a crime of the third degree under
22 subsection b. of this section if the full retail value of the
23 merchandise exceeds \$500 but is less than \$75,000, or the offense
24 is committed in furtherance of or in conjunction with an organized
25 retail theft enterprise and the full retail value of the merchandise is
26 less than \$1,000.

27 (3) Shoplifting constitutes a crime of the fourth degree under
28 subsection b. of this section if the full retail value of the
29 merchandise is at least \$200 but does not exceed \$500.

30 (4) Shoplifting is a disorderly persons offense under subsection
31 b. of this section if the full retail value of the merchandise is less
32 than \$200.

33 The total value of the merchandise involved in a violation or
34 multiple violations of this section may be aggregated within the
35 previous one-year period in determining the grade of the offense
36 where the acts or conduct constituting a violation were committed
37 pursuant to one scheme or course of conduct, whether from the
38 same person or several persons, or were committed in furtherance
39 of or in conjunction with an organized retail theft enterprise.

40 Additionally, notwithstanding the term of imprisonment provided
41 in N.J.S.2C:43-6 or 2C:43-8, any person convicted of a shoplifting
42 offense shall be sentenced to perform community service as
43 follows: for a first offense, at least ten days of community service;
44 for a second offense, at least 15 days of community service; and for
45 a third or subsequent offense, a maximum of 25 days of community
46 service and any person convicted of a third or subsequent
47 shoplifting offense shall serve a minimum term of imprisonment of
48 not less than 90 days.

1 d. Presumptions. Any person purposely concealing
2 unpurchased merchandise of any store or other retail mercantile
3 establishment, either on the premises or outside the premises of
4 such store or other retail mercantile establishment, shall be prima
5 facie presumed to have so concealed such merchandise with the
6 intention of depriving the merchant of the possession, use or benefit
7 of such merchandise without paying the full retail value thereof,
8 and the finding of such merchandise concealed upon the person or
9 among the belongings of such person shall be prima facie evidence
10 of purposeful concealment; and if such person conceals, or causes
11 to be concealed, such merchandise upon the person or among the
12 belongings of another, the finding of the same shall also be prima
13 facie evidence of willful concealment on the part of the person so
14 concealing such merchandise.

15 e. A law enforcement officer, or a special officer, or a
16 merchant, who has probable cause for believing that a person has
17 willfully concealed unpurchased merchandise and that he can
18 recover the merchandise by taking the person into custody, may, for
19 the purpose of attempting to effect recovery thereof, take the person
20 into custody and detain him in a reasonable manner for not more
21 than a reasonable time, and the taking into custody by a law
22 enforcement officer or special officer or merchant shall not render
23 such person criminally or civilly liable in any manner or to any
24 extent whatsoever.

25 Any law enforcement officer may arrest without warrant any
26 person he has probable cause for believing has committed the
27 offense of shoplifting as defined in this section.

28 A merchant who causes the arrest of a person for shoplifting, as
29 provided for in this section, shall not be criminally or civilly liable
30 in any manner or to any extent whatsoever where the merchant has
31 probable cause for believing that the person arrested committed the
32 offense of shoplifting.

33 f. Any person who possesses or uses any antishoplifting or
34 inventory control device countermeasure within any store or other
35 retail mercantile establishment is guilty of a disorderly persons
36 offense.

37 (cf: P.L.2006, c.56, s.1)

38

39 5. Section 2 of P.L.2006, c.56 (C.2C:20-11.2) is amended to
40 read as follows:

41 2. A person is a leader of an organized retail theft enterprise if
42 he conspires with others as an organizer, supervisor, financier or
43 manager, to engage for profit in a scheme or course of conduct to
44 effectuate the transfer or sale of shoplifted merchandise. Leader of
45 organized retail theft enterprise is a crime of the **second** first
46 degree. Notwithstanding the provisions of subsection a. of
47 N.J.S.2C:43-3, the court may impose a fine not to exceed \$250,000

1 or five times the retail value of the merchandise seized at the time
2 of the arrest, whichever is greater.

3 Notwithstanding the provisions of N.J.S.2C:1-8, a conviction of
4 leader of organized retail theft enterprise shall not merge with the
5 conviction for any offense which is the object of the conspiracy.
6 Nothing contained in this section shall prohibit the court from
7 imposing an extended term pursuant to N.J.S.2C:43-7; nor shall this
8 section be construed in any way to preclude or limit the prosecution
9 or conviction of any person for conspiracy under N.J.S.2C:5-2, or
10 any prosecution or conviction for any other offense.

11 It shall not be necessary in any prosecution under this section for
12 the State to prove that any intended profit was actually realized. The
13 trier of fact may infer that a particular scheme or course of conduct
14 was undertaken for profit from all of the attending circumstances,
15 including but not limited to the number of persons involved in the
16 scheme or course of conduct, the actor's net worth and his
17 expenditures in relation to his legitimate sources of income, the
18 amount of merchandise involved, or the amount of cash or currency
19 involved.

20 It shall not be a defense to a prosecution under this section that
21 any shoplifted merchandise was brought into or transported in this
22 State solely for ultimate distribution in another jurisdiction; nor
23 shall it be a defense that any profit was intended to be made in
24 another jurisdiction.

25 (cf: P.L.2006, c.56, s.2)

26

27 6. (New section) a. Upon request of the prosecutor, a person
28 who has been convicted of shoplifting pursuant to N.J.S.2C:20-11,
29 receiving stolen property pursuant to N.J.S.2C:20-7, leader of
30 organized retail theft enterprise pursuant to section 2 of P.L.2006,
31 c.56 (C.2C:20-11.2); or theft as defined in chapter 20 of Title 2C of
32 the New Jersey Statutes that involves the stealing of merchandise
33 from a retail mercantile establishment shall be sentenced to an
34 extended term of imprisonment pursuant to N.J.S.2C:43-7 if the
35 person has previously been convicted on two or more prior and
36 separate occasions, regardless of the dates of the convictions, in
37 accordance with the provisions of subsection b. of this section, for a
38 violation of paragraphs (1) or (2) of subsection c. of N.J.S.2C:20-
39 11, N.J.S.2C:20-7, section 2 of P.L.2006, c.56 (C.2C:20-11.2), or
40 theft as defined in chapter 20 of Title 2C of the New Jersey Statutes
41 involving the stealing of merchandise, or a crime under any statute
42 of the United States, this State, or any other state for a crime that is
43 substantially equivalent to a violation of shoplifting, leader of
44 organized retail theft enterprise, or theft involving merchandise.

45 b. The provisions of this section shall not apply unless the prior
46 convictions are for crimes committed on separate occasions and the
47 crime for which the defendant is being sentenced was committed
48 either:

1 (1) within 10 years of the date of the defendant's last release
2 from confinement for the commission of any crime; or

3 (2) within 10 years of the date of the commission of the most
4 recent of the crimes enumerated in subsection a. of this section for
5 which the defendant has a prior conviction.

6 c. Prior convictions shall be defined and proven in accordance
7 with N.J.S.2C:44-4.

8 d. The court shall not impose a sentence of imprisonment
9 pursuant to this section unless the ground therefor has been
10 established at a hearing after the conviction of the defendant and on
11 written notice to the defendant of the ground proposed. The
12 defendant shall have the right to hear and controvert the evidence
13 against him and to offer evidence upon the issue.

14

15 7. (New section) a. The Attorney General shall, in consultation
16 with the Director of the Division of Criminal Justice, establish a
17 retail theft unit or other appropriate office in the Department of Law
18 and Public Safety to combat organized retail theft in this State. The
19 Attorney General shall investigate, coordinate, and supply resources
20 to prosecute organized retail theft.

21 b. (1). In a manner prescribed by the Attorney General, a
22 county prosecutor, law enforcement officer, special officer, or retail
23 merchant may notify the Division of Criminal Justice of allegations
24 that a crime of retail theft was committed.

25 (2) In a manner prescribed by the Attorney General, a county
26 prosecutor shall notify the Division of Criminal Justice that a crime
27 of retail theft was allegedly committed by a defendant if:

28 (a) there is probable cause that the defendant has committed two
29 or more acts of retail theft in the State;

30 (b) there is probable cause that the defendant has committed one
31 or more acts of retail theft in this State and one or more acts of
32 retail theft in another state; or

33 (c) the defendant has previously been convicted of retail theft in
34 this State or another state.

35 c. The Division of Criminal Justice shall have the authority to:

36 (1) investigate and, if warranted, prosecute cases concerning
37 acts of retail theft; and

38 (2) assist county prosecutors in the investigation and prosecution
39 of acts of retail theft.

40 d. As used in this section, "retail theft" shall include the crimes
41 of shoplifting pursuant to N.J.S.2C:20-11; leader of organized retail
42 theft enterprise pursuant to section 2 of P.L.2006, c.56 (C.2C:20-
43 11.2); or theft as defined in chapter 20 of Title 2C of the New
44 Jersey Statutes that involves the stealing of merchandise.

45

46 8. Section 19 of P.L.1987, c.76 (C.54:52-9) is amended to read
47 as follows:

1 19. a. A person is guilty of a crime of the third degree if he
2 fails to pay or turn over when due any tax, fee, penalty or interest or
3 any part thereof required to be paid pursuant to the provisions of the
4 State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., as amended
5 and supplemented, or any State tax law, with the intent to evade,
6 avoid or otherwise not make timely payment or deposit of any tax,
7 fee, penalty or interest or any part thereof. The crime shall be of
8 the second degree if a person fails to pay or turn over when due any
9 tax, fee, penalty or interest or any part thereof required to be paid in
10 connection with the person being a leader of an organized retail
11 theft enterprise in violation section 2 of P.L.2006, c.56 (C.2C:20-
12 11.2).

13 b. The fact that any payment was made with a subsequently
14 dishonored negotiable instrument shall constitute prima facie
15 evidence that the actor failed to pay within the meaning of
16 subsection a. of this section, and the trier of fact may draw a
17 permissive inference therefrom that the actor did not intend to make
18 the payment.

19 (cf: P.L.1987, c.76, s.19)

20

21 9. Section 25 of P.L.1987, c.76 (C.54:52-15) is amended to
22 read as follows:

23 25. A person is guilty of a crime of the third degree if he, after
24 having collected or withheld taxes as required by any State tax law,
25 whether or not he is authorized, licensed, or registered to collect or
26 withhold taxes, purposely fails to turn over the taxes to the Director
27 of the Division of Taxation in the manner and at the time prescribed
28 by law. The crime shall be of the second degree if the amount of
29 the tax collected or withheld is \$75,000.00 or more, or if the person
30 is a leader of an organized retail theft enterprise in violation of
31 section 2 of P.L.2006, c.56 (C.2C:20-11.2).

32 (cf: P.L.1987, c.76, s.25)

33

34 10. Section 1 of P.L.2021, c.431 (C.56:8-110.1) is amended to
35 read as follows:

36 1. a. Every retail mercantile establishment in this State that
37 displays open-loop gift cards or closed-loop gift cards for sale shall
38 train employees on how to identify and respond to open- loop gift
39 card or closed-loop gift card fraud. A retail mercantile
40 establishment shall conduct the training in accordance with
41 guidelines issued pursuant to section 2 of **[this act]** P.L.2021, c.431
42 (C.56:8-110.2).

43 b. A retail mercantile establishment that violates the provisions
44 of this section or section 11 of P.L. , c. (C.) (pending
45 before the Legislature as this bill) shall be subject to a civil penalty
46 of \$1,000, which may be collected and enforced by the Director of
47 the Division of Consumer Affairs in the Department of Law and
48 Public Safety in a summary proceeding pursuant to the "Penalty

1 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
2 The Superior Court shall have jurisdiction of proceedings for the
3 enforcement of the penalty provided by this section.

4 A violation of this section shall not be considered an unlawful
5 practice in violation of P.L.1960, c.39 (C.56:8-1 et seq.).

6 c. As used in this **【section】** P.L.2021, c.431, and section 11 of
7 P.L. , c. (C.) (pending before the Legislature as this bill):

8 “Closed-loop gift card” means a gift card, code or device that is:

9 (1) issued to a consumer on a prepaid basis primarily for
10 personal, family, or household purposes in a specified amount,
11 regardless of whether that amount may be increased or reloaded in
12 exchange for payment; and

13 (2) redeemable on presentation by a consumer at a single retail
14 mercantile establishment or a group of affiliated retail mercantile
15 establishments.

16 **【**"Gift card" means a tangible device, whereon is embedded or
17 encoded in an electronic or other format a value issued in exchange
18 for payment, which promises to provide to the bearer merchandise
19 of equal value to the remaining balance of the device.**】**

20 "Merchandise" means any objects, wares, goods, commodities,
21 services, or anything offered, directly or indirectly, to the public for
22 sale.

23 “Open-Loop Gift Card” means a card, code, or device that is:

24 (1) issued to a consumer on a prepaid basis primarily for
25 personal, family, or household purposes in a specified amount,
26 regardless of whether that amount may be increased or reloaded in
27 exchange for payment;

28 (2) payment card network branded; and

29 (3) redeemable on presentation at multiple unaffiliated merchants
30 for goods or services within the payment card network or usable at
31 an automated teller machine.

32 "Retail mercantile establishment" means any place of business
33 where merchandise is exposed or offered for sale at retail to
34 members of the consuming public.

35 “Third-Party Gift Card Reseller” means a merchant who, without
36 authorization from or affiliation with the business entity issuing an
37 open- or closed-loop gift card, is engaged in the business of:

38 (1) buying open- or closed-loop gift cards on behalf of
39 consumers; or

40 (2) reselling open- or closed-loop gift cards to consumers.

41 (cf: P.L.2021, c.431, s.1)

42

43 11. (New section) a. The Director of the Division of Consumer
44 Affairs in the Department of Law and Public Safety shall create and
45 provide a notice to retail mercantile establishments which shall
46 include, but not be limited to:

47 (1) the risk of gift card scams; and

1 (2) available assistance, including from the Division of
2 Consumer Affairs, a consumer may seek if the consumer suspects
3 they may be a victim of a gift card scam.

4 b. (1) Except as provided in subsection e. of this section, a
5 retail mercantile establishment may not knowingly sell an open-
6 loop gift card or closed-loop gift card to a consumer unless the
7 retail mercantile establishment conspicuously displays a notice in a
8 form as prescribed by the Director of the Division of Consumer
9 Affairs in accordance with subsection a. of this section.

10 (2) For in-person sales, the notice shall be placed at or near the
11 physical location where the open-loop gift card is displayed for sale
12 or where the sale of the open-loop gift card is sold.

13 (3) For online sales of open-loop gift cards, the notice shall be
14 displayed on the webpage where the gift card is offered for sale or
15 before the sale is finalized.

16 c. For the sale of an open-loop gift card pursuant to paragraph
17 (2) of subsection b., the gift card shall be enclosed in packaging
18 that:

19 (1) is sealed in a manner that is not easily opened without signs
20 of tampering;

21 (2) except as provided in paragraph (3) of this subsection,
22 conceals all numeric codes specific to the activation or the
23 redemption of the gift card, including any bar code, CVV number,
24 pin number, or activation code;

25 (3) displays an activation code, bar code, or other activation data
26 only if the packaging used is more secure than it otherwise would
27 be if the data were fully concealed; and

28 (4) includes a warning that states the following or uses language
29 substantially similar to the following: "Do not sell or purchase if
30 packaging has been broken or indicates tampering."

31 d. For the sale of a closed-loop gift card, the gift card shall be
32 enclosed in packaging that:

33 (1) conceals or covers, in a manner that is not easily removed or
34 replaced without signs of tampering, all numeric codes specific to
35 the redemption of the gift card; or

36 (2) if made more secure through partial concealment or covering
37 than full concealment or covering pursuant to paragraph (1) of this
38 subsection, partially conceals or covers, in a manner that is not
39 easily removed or replaced without signs of tampering, all numeric
40 codes specific to redemption of the gift card; and

41 (3) includes a warning that states the following or uses language
42 substantially similar to the following: "Do not sell or purchase if
43 packaging has been broken or indicates tampering."

44 e. A retail mercantile establishment may sell an open- or closed
45 loop gift card that is not enclosed in secured packaging pursuant to
46 subsection c. or d. of this section if:

- 1 (1) the gift card is a chip-enabled, numberless card that is
2 activated by a consumer after registering the card on the card
3 issuer's website; or
- 4 (2) the gift card is:
- 5 (a) sold exclusively by a retail mercantile establishment for use
6 only at the retail mercantile establishment or a group of affiliated
7 retail mercantile establishments for use at the retail mercantile
8 establishments of the affiliated establishments; and
- 9 (b) is secured in a physical location within the retail mercantile
10 establishment that is accessible only by an employee.
- 11 f. (1) When a third-party gift card reseller buys or sells an
12 open-loop gift card as part of a transaction occurring in this State,
13 the reseller shall record and, for at least three years, maintain a copy
14 of the following information as applicable:
- 15 (a) the date of the transaction;
- 16 (b) the name of the person who conducted the transaction;
- 17 (c) the name, age, and address of the seller of the gift card;
- 18 (d) the seller's and consumer's driver's license number or
19 identification card number;
- 20 (e) a description of the purchased gift card, including, but not
21 limited to, the retailer for which the gift card is intended for use and
22 the gift card number;
- 23 (f) the specific amount issued on the gift card;
- 24 (g) the transaction price;
- 25 (h) the signature of the consumer.
- 26 (2) The information recorded and maintained pursuant to this
27 section shall be chronologically written in ink or logged into a
28 secure database, software system, or other similar technology
29 platform.
- 30 (3) Except as provided in paragraph (4) of this subsection,
31 recorded information may not be destroyed, altered, or erased.
- 32 (4) A handwritten correction may be made to an entry of
33 information by drawing a line of ink through the entry in a manner
34 that retains legibility.
- 35 (5) Information recorded pursuant to this subsection shall be
36 open to inspection by any duly authorized law enforcement officer
37 in this State during the ordinary business hours of the third-party
38 gift card reseller or at other reasonable time.
- 39 f. A third-party gift card reseller, including an agent or
40 employee of the third-party gift card reseller may not:
- 41 (1) fail to make an entry of or falsify, destroy, or remove any
42 information required to be recorded and maintained pursuant to this
43 section;
- 44 (2) refuse to allow any duly authorized law enforcement officer
45 in this State to inspect a record of information or open- or closed-
46 loop gift cards in the reseller's possession; or
- 47 (3) fail to maintain a record in pursuant to this section.

1 g. Upon the filing of an official report to a law enforcement
2 agency by any person alleging to be a victim of theft of one or more
3 open- or closed-loop gift cards with an aggregate value exceed
4 \$500, law enforcement may request that the issuer of the gift cards
5 or the issuer's agents preserve and provide law enforcement all
6 relevant evidence.

7
8 12. There is appropriated from the General Fund to the
9 Department of Law and Public Safety the sum of \$1,000,000 to
10 effectuate the provisions of this act.

11
12 13. This act shall take effect immediately, except that sections 7,
13 10, and 11 shall take effect on the 180th day after the date of
14 enactment.

15
16
17 STATEMENT

18
19 This bill makes various changes to State law related to retail
20 theft. The bill upgrades certain crimes related to retail theft,
21 permits certain defendants to be sentenced to extended terms of
22 imprisonment, and establishes a retail theft unit in the Department
23 of Law and Public Safety (DLPS).

24
25 ASSAULT

26 The bill establishes that it is aggravated assault to assault an
27 "employee of a retail mercantile establishment." This is defined as
28 any person engaged in the sale, display, or offering for sale of
29 consumer commodities and who is employed by any place of
30 business where merchandise is displayed, held, stored, or sold or
31 offered at retail to members of consuming public.

32 Aggravated assault is a crime of a employee of a retail
33 mercantile establishment is a crime of the third degree if the victim
34 suffers bodily injury, otherwise it is a crime of the fourth degree. A
35 third degree crime is punishable by three to five years
36 imprisonment, a fine of up to \$15,000, or both. A fourth degree
37 crime is punishable by up to 18 months imprisonment, a fine of up
38 to \$10,000, or both.

39
40 LEADER OF ORGANIZED RETAIL THEFT ENTERPRISE

41 The bill upgrades the crime of "leader of organized retail theft
42 enterprise" to a crime of the first degree.

43 A first degree crime is punishable by 10 to 20 years
44 imprisonment, a fine of up to \$200,000, or both.

1 TAX EVASION

2 The bill increases the penalty for failure to pay taxes in
3 connection with being the leader of an organized retail theft
4 enterprise to a second degree crime.

5 A second degree crime is punishable by five to 10 years
6 imprisonment, a fine of up to \$150,000, or both.

7

8 PERSISTENT OFFENDER

9 The bill provides that a person may be sentenced to an extended
10 term of imprisonment for repeat convictions related to retail theft.

11 Under the bill, a person is a persistent offender if the person has
12 previously been convicted on two or more prior and separate
13 occasions of receiving stolen property, shoplifting, being a leader of
14 organized retail theft enterprise; or theft that involves the stealing of
15 merchandise, regardless of the dates of the convictions. A persistent
16 offender may be sentenced to an extended term, upon motion of the
17 prosecutor, if the prior conviction is for a crime committed on a
18 separate occasion and the crime for which the person is being
19 sentenced was either: (1) within 10 years of the date of the
20 defendant's last release from confinement for the commission of
21 any crime; or (2) within 10 years of the date of the commission of
22 the most recent violation of a crime established in the bill for which
23 the defendant has a prior conviction.

24

25 RETAIL THEFT AGGREGATION

26 The bill provides a one-year look back period for aggregation of
27 shoplifting violations. The bill provides that the value of
28 merchandise involved in a violation of the shoplifting statute may
29 be aggregated within the previous one-year period in determining
30 the grade of the offense where the acts or conduct constituting a
31 violation were committed pursuant to one scheme or course of
32 conduct, whether from the same person or several persons, or were
33 committed in furtherance of or in conjunction with an organized
34 retail theft enterprise.

35

36 FENCING

37 The bill updates the fencing statutes, N.J.S.A.2C:20-7.1, to
38 clarify that the statute also applies to online sales of stolen goods.

39

40 FOSTERING STOLEN PROPERTY

41 The bill also separately establishes the offense of fostering the
42 sale of stolen property. The offense is a disorderly persons offense.

43 A person commits an offense under the bill when: (1) the person
44 hosts, advertises, or otherwise assists the sale of stolen goods,
45 including on an Internet website; and (2) the person knows or
46 reasonably should know that the property was stolen.

1 The requisite knowledge is presumed in the case of a person who
2 undertook a substantial and unjustifiable risk that the persons
3 actions would result in the sale of stolen property.

4 A disorderly persons offense is punishable by up to six months
5 imprisonment, a fine of up to \$1,000, or both.

6

7 GIFT CARD FRAUD

8 The bill imposes certain packaging requirements for the sale of
9 open and closed-loop gift cards and requires the Division of
10 Consumer Affairs (DCA) in the Department of Law and Public
11 Safety to create a notice related to gift card fraud for dissemination
12 in locations which sell gift cards.

13 The bill defines “closed-loop gift card” as a gift card, code or
14 device that is: (1) issued to a consumer on a prepaid basis primarily
15 for personal, family, or household purposes in a specified amount,
16 regardless of whether that amount may be increased or reloaded in
17 exchange for payment; and (2) redeemable on presentation by a
18 consumer at a single retail mercantile establishment or a group of
19 affiliated retail mercantile establishments. Further, the bill defines
20 “open-loop gift card” as a card, code, or device that is: (1) issued to
21 a consumer on a prepaid basis primarily for personal, family, or
22 household purposes in a specified amount, regardless of whether
23 that amount may be increased or reloaded in exchange for payment;
24 (2) payment card network branded; and (3) redeemable on
25 presentation at multiple unaffiliated merchants for goods or services
26 within the payment card network or usable at an automated teller
27 machine.

28 The bill prohibits a retail mercantile establish from knowingly
29 selling an open- or closed-loop gift card to a consumer unless the
30 establishment conspicuously displays the notice provided by the
31 DCA and the packaging of the gift card meets certain requirements
32 in the bill.

33 Further, the bill establishes requirements as it relates to third-
34 party gift card resellers. The bill defines “third-party gift card
35 reseller” as a merchant who, without authorization from or
36 affiliation with the business entity issuing an open- or closed-loop
37 gift card, is engaged in the business of: (1) buying open- or closed-
38 loop gift cards on behalf of consumers; or (2) reselling open- or
39 closed-loop gift cards to consumers. These resellers are subject to
40 certain record maintenance requirements.

41 A retail mercantile establishment that violates the provisions of
42 N.J.S.A.56:8-110.1 et seq. or the provisions of the bill related to
43 open- or closed-loop gift card fraud is subject to a civil penalty of
44 \$1,000.

45

46 ORGANIZED RETAIL THEFT UNIT

47 Finally, the bill requires the Attorney General, in consultation
48 with the Director of the Division of Criminal Justice, to establish a

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22

1 unit or other appropriate office to combat organized retail theft.
2 The unit, and the Division of Criminal Justice, will have the
3 authority to (1) investigate and, if warranted, prosecute cases
4 concerning acts of retail theft; and (2) assist county prosecutors in
5 the investigation and prosecution of acts of retail theft.

[First Reprint]

SENATE, No. 3587

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED SEPTEMBER 19, 2024

Sponsored by:

Senator JOHN J. BURZICHELLI

District 3 (Cumberland, Gloucester and Salem)

Senator HOLLY T. SCHEPISI

District 39 (Bergen)

Assemblyman JOE DANIELSEN

District 17 (Middlesex and Somerset)

Assemblyman ALEX SAUICKIE

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblywoman HEATHER SIMMONS

District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

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SYNOPSIS

Upgrades, and in some circumstances provides for extended terms of imprisonment for, certain retail theft crimes, addresses gift card fraud, and authorizes new Attorney General initiatives to address organized retail theft.

CURRENT VERSION OF TEXT

As reported by the Senate Judiciary Committee on February 20, 2025, with amendments.

(Sponsorship Updated As Of: 2/27/2025)

1 AN ACT concerning retail theft, amending and supplementing
2 various parts of the statutory law, and making an appropriation.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 7 of P.L.1981, c.167 (C.2C:20-7.1) is amended to
8 read as follows:

9 7. Fencing. a. Possession of altered property. Any dealer in
10 property who knew or should have known that the identifying
11 features such as serial numbers and permanently affixed labels of
12 property in his possession have been removed or altered without the
13 consent of the manufacturer is guilty of possession of altered
14 property. It is a defense to a prosecution under this subsection that
15 a person lawfully possesses the usual indicia of ownership in
16 addition to mere possession.

17 b. (1) Dealing in stolen property. A person is guilty of dealing in
18 stolen property if he traffics in, or initiates, organizes, plans,
19 finances, directs, manages or supervises trafficking in stolen
20 property, including through the use of an online platform via any
21 electronic device or through a social media site. This paragraph
22 shall not apply to dealing in stolen property consisting of a
23 domestic companion animal, addressed in paragraph (2) of this
24 subsection.

25 (2) Dealing in stolen domestic companion animals. A person is
26 guilty of dealing in stolen domestic companion animals if he
27 trafficks in, or initiates, organizes, plans, finances, directs, manages
28 or supervises trafficking in stolen property consisting of a domestic
29 companion animal.

30 c. (1) For any violation of this section, other than dealing in
31 stolen domestic companion animals, the value of the property
32 involved in the violation shall be determined by the trier of fact for
33 the purpose of determining the grade of the offense, and the value
34 of the property involved in the violation may be aggregated in
35 determining the grade of the offense where the acts or conduct
36 constituting a violation were committed pursuant to one scheme or
37 course of conduct, whether from the same person or several
38 persons.

39 (2) A violation of this section for dealing in stolen domestic
40 companion animals constitutes a crime of the third degree.

41 d. It is an affirmative defense to a prosecution under this
42 section that the actor:

43 (1) Was unaware that the property or service was that of
44 another;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SJU committee amendments adopted February 20, 2025.

1 (2) Acted under an honest claim of right to the property or
2 service involved or that he had a right to acquire or dispose of it as
3 he did.

4 e. In addition to the presumptions contained in subsection b. of
5 N.J.S.2C:20-7, the following presumptions are available in the
6 prosecution for a fencing offense:

7 (1) Proof of the purchase or sale of property at a price
8 substantially below its fair market value, unless satisfactorily
9 explained, gives rise to an inference that the person buying or
10 selling the property knew that it had been stolen;

11 (2) Proof of the purchase or sale of property by a dealer in that
12 property, out of the regular course of business, or without the usual
13 indicia of ownership other than mere possession, or the property or
14 the job lot of which it is a part was bought, received, possessed or
15 controlled in broken succession of title, so that it cannot be traced,
16 by appropriate documents, in unbroken succession to the
17 manufacturer, in all cases where the regular course of business
18 reasonably indicates records of purchase, transfer or sale, unless
19 satisfactorily explained, gives rise to an inference that the person
20 buying or selling the property knew that it had been stolen; and

21 (3) Proof that a person buying or selling property of the sort
22 received obtained such property without having ascertained by
23 reasonable inquiry that the person from whom he obtained it had a
24 legal right to possess or control it gives rise to an inference that
25 such person knew that it had been stolen.

26 (cf: P.L.2017, c.156, s.1)

27
28 2. (New section) a. ¹As used in P.L. , c. (C.) (pending
29 before the Legislature as this bill):

30 “Online platform” means any public-facing Internet website,
31 Internet web application, or computer or mobile application,
32 including a social networking website or publication.

33 “Sale” means any sale, transfer, exchange, barter, or offer for
34 sale and distribution, in any manner or by any means whatsoever,
35 including, but not limited to, via an online platform.

36 b.¹ A person is guilty of fostering the sale of stolen property, a
37 disorderly persons offense, if the person ¹ [

38 (1) hosts¹ , ¹ acting alone or in concert with another person or
39 persons,¹ advertises ¹ [,]¹ or otherwise assists ¹ , by any means,
40 including through personal contact or through the use of an online
41 platform or any other communications channel or medium,¹ in the
42 sale of ¹ [stolen goods, including through an online platform; and

43 (2) knows or reasonably should know that the property was
44 stolen. The requisite knowledge is presumed in the case of a person
45 who undertook a substantial and unjustifiable risk that the persons
46 actions would result in the sale of stolen property] property of

1 another knowing that it has been stolen or reasonably believing that
2 it is stolen¹.

3 ¹**[b.** As defined in this act:

4 “Online platform” means any public-facing Internet website,
5 Internet web application, or computer or mobile application,
6 including a social networking website or publication.

7 “Sale” means any sale, transfer, exchange, barter, or offer for
8 sale and distribution, in any manner or by any means whatsoever,
9 including, but not limited to, via an online platform.

10 “Stolen property” shall have the same meaning as defined
11 pursuant to N.J.S.2C:20-1.】

12 c. The following presumptions are available in the prosecution
13 of an offense under this section of fostering the sale of stolen
14 property:

15 (1) Proof of the property being advertised for sale at a price
16 substantially below its fair market value, unless satisfactorily
17 explained, gives rise to an inference that the person advertising or
18 otherwise assisting in the sale of the property knew that it is stolen
19 or reasonably believed that the property is stolen; and

20 (2) Proof that a person advertised or otherwise assisted in the
21 sale of the property without having ascertained by reasonable
22 inquiry that the person offering the property for sale had a legal
23 right to possess or control it gives rise to an inference that such
24 person knew that it is stolen or reasonably believed that it is stolen.

25 d. Nothing in this section shall be construed to preclude or
26 limit the prosecution or conviction of any person for any other
27 crime or offense.¹

28

29 3. N.J.S.2C:12-1 is amended as follows:

30 2C:12-1. Assault. a. Simple assault. A person is guilty of
31 assault if the person:

32 (1) Attempts to cause or purposely, knowingly or recklessly
33 causes bodily injury to another; or

34 (2) Negligently causes bodily injury to another with a deadly
35 weapon; or

36 (3) Attempts by physical menace to put another in fear of
37 imminent serious bodily injury.

38 Simple assault is a disorderly persons offense unless committed
39 in a fight or scuffle entered into by mutual consent, in which case it
40 is a petty disorderly persons offense.

41 b. Aggravated assault. A person is guilty of aggravated assault
42 if the person:

43 (1) Attempts to cause serious bodily injury to another, or causes
44 injury purposely or knowingly or under circumstances manifesting
45 extreme indifference to the value of human life recklessly causes
46 such injury; or

47 (2) Attempts to cause or purposely or knowingly causes bodily
48 injury to another with a deadly weapon; or

- 1 (3) Recklessly causes bodily injury to another with a deadly
2 weapon; or
- 3 (4) Knowingly under circumstances manifesting extreme
4 indifference to the value of human life points a firearm, as defined
5 in subsection f. of N.J.S.2C:39-1, at or in the direction of another,
6 whether or not the actor believes it to be loaded; or
- 7 (5) Commits a simple assault as defined in paragraph (1), (2), or
8 (3) of subsection a. of this section upon:
- 9 (a) Any law enforcement officer acting in the performance of
10 the officer's duties while in uniform or exhibiting evidence of
11 authority or because of the officer's status as a law enforcement
12 officer; or
- 13 (b) Any paid or volunteer firefighter acting in the performance
14 of the firefighter's duties while in uniform or otherwise clearly
15 identifiable as being engaged in the performance of the duties of a
16 firefighter; or
- 17 (c) Any person engaged in emergency first-aid or medical
18 services acting in the performance of the person's duties while in
19 uniform or otherwise clearly identifiable as being engaged in the
20 performance of emergency first-aid or medical services; or
- 21 (d) Any school board member, school administrator, teacher,
22 school bus driver, or other employee of a public or nonpublic
23 school or school board while clearly identifiable as being engaged
24 in the performance of the person's duties or because of the person's
25 status as a member or employee of a public or nonpublic school or
26 school board or any school bus driver employed by an operator
27 under contract to a public or nonpublic school or school board while
28 clearly identifiable as being engaged in the performance of the
29 person's duties or because of the person's status as a school bus
30 driver; or
- 31 (e) Any employee of the Division of Child Protection and
32 Permanency while clearly identifiable as being engaged in the
33 performance of the employee's duties or because of the status as an
34 employee of the division; or
- 35 (f) Any justice of the Supreme Court, judge of the Superior
36 Court, judge of the Tax Court or municipal judge while clearly
37 identifiable as being engaged in the performance of judicial duties
38 or because of the status as a member of the judiciary; or
- 39 (g) Any operator of a motorbus or the operator's supervisor or
40 any employee of a rail passenger service while clearly identifiable
41 as being engaged in the performance of the person's duties or
42 because of the status as an operator of a motorbus or as the
43 operator's supervisor or as an employee of a rail passenger service;
44 or
- 45 (h) Any Department of Corrections employee, county
46 correctional police officer, juvenile correctional police officer, State
47 juvenile facility employee, juvenile detention staff member,
48 juvenile detention officer, probation officer or any sheriff,

1 undersheriff, or sheriff's officer acting in the performance of the
2 person's duties while in uniform or exhibiting evidence of the
3 person's authority or because of the status as a Department of
4 Corrections employee, county correctional police officer, juvenile
5 correctional police officer, State juvenile facility employee, juvenile
6 detention staff member, juvenile detention officer, probation
7 officer, sheriff, undersheriff, or sheriff's officer; or

8 (i) Any employee, including any person employed under
9 contract, of a utility company as defined in section 2 of P.L.1971,
10 c.224 (C.2A:42-86) or a cable television company subject to the
11 provisions of the "Cable Television Act," P.L.1972, c.186
12 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in
13 the performance of the employee's duties in regard to connecting,
14 disconnecting, or repairing or attempting to connect, disconnect, or
15 repair any gas, electric, or water utility, or cable television or
16 telecommunication service; or

17 (j) Any health care worker employed by a licensed health care
18 facility to provide direct patient care, any health care professional
19 licensed or otherwise authorized pursuant to Title 26 or Title 45 of
20 the Revised Statutes to practice a health care profession, except a
21 direct care worker at a State or county psychiatric hospital or State
22 developmental center or veterans' memorial home, while clearly
23 identifiable as being engaged in the duties of providing direct
24 patient care or practicing the health care profession; or

25 (k) Any direct care worker at a State or county psychiatric
26 hospital or State developmental center or veterans' memorial home,
27 while clearly identifiable as being engaged in the duties of
28 providing direct patient care or practicing the health care
29 profession, provided that the actor is not a patient or resident at the
30 facility who is classified by the facility as having a mental illness or
31 developmental disability; or

32 (l) Any employee of a 'store or other' retail mercantile
33 establishment ¹]. "Employee of a retail mercantile establishment"
34 means any person,] ¹while clearly identifiable as being engaged in
35 the performance of the person's duties ¹], engaged in the sale,
36 display, or offering for sale of consumer commodities and who is
37 employed by any place of business where merchandise is displayed,
38 held, stored, or sold or offered at retail to members of consuming
39 public] . "Store or other retail mercantile establishment" means the
40 same as such term is defined in N.J.S.2C:20-11. "Employee"
41 means any person who provides customer assistance, store
42 management, visual merchandising, loss prevention or security
43 services, whether in uniform or in plain clothes, or who acts as a
44 cashier, salesperson, or team associate or otherwise interacts with
45 customers for or on behalf of the store or other retail mercantile
46 establishment¹; or

1 (6) Causes bodily injury to another person while fleeing or
2 attempting to elude a law enforcement officer in violation of
3 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
4 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any
5 other provision of law to the contrary, a person shall be strictly
6 liable for a violation of this paragraph upon proof of a violation of
7 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
8 violation of subsection c. of N.J.S.2C:20-10 which resulted in
9 bodily injury to another person; or

10 (7) Attempts to cause significant bodily injury to another or
11 causes significant bodily injury purposely or knowingly or, under
12 circumstances manifesting extreme indifference to the value of
13 human life recklessly causes such significant bodily injury; or

14 (8) Causes bodily injury by knowingly or purposely starting a
15 fire or causing an explosion in violation of N.J.S.2C:17-1 which
16 results in bodily injury to any emergency services personnel
17 involved in fire suppression activities, rendering emergency
18 medical services resulting from the fire or explosion or rescue
19 operations, or rendering any necessary assistance at the scene of the
20 fire or explosion, including any bodily injury sustained while
21 responding to the scene of a reported fire or explosion. For
22 purposes of this paragraph, "emergency services personnel" shall
23 include, but not be limited to, any paid or volunteer firefighter, any
24 person engaged in emergency first-aid or medical services and any
25 law enforcement officer. Notwithstanding any other provision of
26 law to the contrary, a person shall be strictly liable for a violation of
27 this paragraph upon proof of a violation of N.J.S.2C:17-1 which
28 resulted in bodily injury to any emergency services personnel; or

29 (9) Knowingly, under circumstances manifesting extreme
30 indifference to the value of human life, points or displays a firearm,
31 as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of
32 a law enforcement officer; or

33 (10) Knowingly points, displays or uses an imitation firearm, as
34 defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a
35 law enforcement officer with the purpose to intimidate, threaten, or
36 attempt to put the officer in fear of bodily injury or for any unlawful
37 purpose; or

38 (11) Uses or activates a laser sighting system or device, or a
39 system or device which, in the manner used, would cause a
40 reasonable person to believe that it is a laser sighting system or
41 device, against a law enforcement officer acting in the performance
42 of the officer's duties while in uniform or exhibiting evidence of the
43 officer's authority. As used in this paragraph, "laser sighting system
44 or device" means any system or device that is integrated with or
45 affixed to a firearm and emits a laser light beam that is used to
46 assist in the sight alignment or aiming of the firearm; or

47 (12) Attempts to cause significant bodily injury or causes
48 significant bodily injury purposely or knowingly or, under

1 circumstances manifesting extreme indifference to the value of
2 human life, recklessly causes significant bodily injury to a person
3 who, with respect to the actor, meets the definition of a victim of
4 domestic violence, as defined in subsection d. of section 3 of
5 P.L.1991, c.261 (C.2C:25-19); or

6 (13) Knowingly or, under circumstances manifesting extreme
7 indifference to the value of human life, recklessly obstructs the
8 breathing or blood circulation of a person who, with respect to the
9 actor, meets the definition of a victim of domestic violence, as
10 defined in subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-
11 19), by applying pressure on the throat or neck or blocking the nose
12 or mouth of such person, thereby causing or attempting to cause
13 bodily injury.

14 Aggravated assault under paragraphs (1) and (6) of subsection b.
15 of this section is a crime of the second degree; under paragraphs
16 (2), (7), (9), and (10) of subsection b. of this section is a crime of
17 the third degree; under paragraphs (3) and (4) of subsection b. of
18 this section is a crime of the fourth degree; and under paragraph (5)
19 of subsection b. of this section is a crime of the third degree if the
20 victim suffers bodily injury, otherwise it is a crime of the fourth
21 degree, except that any aggravated assault under subparagraph (g)
22 of paragraph (5) of subsection b. of this section shall be a crime of
23 the third degree. Aggravated assault under paragraph (8) of
24 subsection b. of this section is a crime of the third degree if the
25 victim suffers bodily injury; if the victim suffers significant bodily
26 injury or serious bodily injury it is a crime of the second degree.
27 Aggravated assault under paragraph (11) of subsection b. of this
28 section is a crime of the third degree. Aggravated assault under
29 paragraph (12) of subsection b. of this section is a crime of the third
30 degree but the presumption of non-imprisonment set forth in
31 subsection e. of N.J.S.2C:44-1 for a first offense of a crime of the
32 third degree shall not apply. Aggravated assault under paragraph
33 (13) of subsection b. of this section is a crime of the second degree.

34 c. (1) A person is guilty of assault by auto or vessel when the
35 person drives a vehicle or vessel recklessly and causes either
36 serious bodily injury or bodily injury to another. Assault by auto or
37 vessel is a crime of the fourth degree if serious bodily injury results
38 and is a disorderly persons offense if bodily injury results. Proof
39 that the defendant was operating a hand-held wireless telephone
40 while driving a motor vehicle in violation of section 1 of P.L.2003,
41 c.310 (C.39:4-97.3) may give rise to an inference that the defendant
42 was driving recklessly.

43 (2) Assault by auto or vessel is a crime of the third degree if the
44 person drives the vehicle while in violation of R.S.39:4-50 or
45 section 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily
46 injury results and is a crime of the fourth degree if the person drives
47 the vehicle while in violation of R.S.39:4-50 or section 2 of
48 P.L.1981, c.512 (C.39:4-50.4a) and bodily injury results.

1 (3) Assault by auto or vessel is a crime of the second degree if
2 serious bodily injury results from the defendant operating the auto
3 or vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981,
4 c.512 (C.39:4-50.4a) while:

5 (a) on any school property used for school purposes which is
6 owned by or leased to any elementary or secondary school or school
7 board, or within 1,000 feet of such school property;

8 (b) driving through a school crossing as defined in R.S.39:1-1 if
9 the municipality, by ordinance or resolution, has designated the
10 school crossing as such; or

11 (c) driving through a school crossing as defined in R.S.39:1-1
12 knowing that juveniles are present if the municipality has not
13 designated the school crossing as such by ordinance or resolution.

14 Assault by auto or vessel is a crime of the third degree if bodily
15 injury results from the defendant operating the auto or vessel in
16 violation of this paragraph.

17 A map or true copy of a map depicting the location and
18 boundaries of the area on or within 1,000 feet of any property used
19 for school purposes which is owned by or leased to any elementary
20 or secondary school or school board produced pursuant to section 1
21 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under
22 subparagraph (a) of paragraph (3) of this subsection.

23 It shall be no defense to a prosecution for a violation of
24 subparagraph (a) or (b) of paragraph (3) of this subsection that the
25 defendant was unaware that the prohibited conduct took place while
26 on or within 1,000 feet of any school property or while driving
27 through a school crossing. Nor shall it be a defense to a prosecution
28 under subparagraph (a) or (b) of paragraph (3) of this subsection
29 that no juveniles were present on the school property or crossing
30 zone at the time of the offense or that the school was not in session.

31 (4) Assault by auto or vessel is a crime of the third degree if the
32 person purposely drives a vehicle in an aggressive manner directed
33 at another vehicle and serious bodily injury results and is a crime of
34 the fourth degree if the person purposely drives a vehicle in an
35 aggressive manner directed at another vehicle and bodily injury
36 results. For purposes of this paragraph, "driving a vehicle in an
37 aggressive manner" shall include, but is not limited to,
38 unexpectedly altering the speed of the vehicle, making improper or
39 erratic traffic lane changes, disregarding traffic control devices,
40 failing to yield the right of way, or following another vehicle too
41 closely.

42 As used in this subsection, "vessel" means a means of
43 conveyance for travel on water and propelled otherwise than by
44 muscular power.

45 d. A person who is employed by a facility as defined in section
46 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as
47 defined in paragraph (1) or (2) of subsection a. of this section upon
48 an institutionalized elderly person as defined in section 2 of

1 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
2 degree.

3 e. (Deleted by amendment, P.L.2001, c.443).

4 f. A person who commits a simple assault as defined in
5 paragraph (1), (2), or (3) of subsection a. of this section in the
6 presence of a child under 16 years of age at a school or community
7 sponsored youth sports event is guilty of a crime of the fourth
8 degree. The defendant shall be strictly liable upon proof that the
9 offense occurred, in fact, in the presence of a child under 16 years
10 of age. It shall not be a defense that the defendant did not know
11 that the child was present or reasonably believed that the child was
12 16 years of age or older. The provisions of this subsection shall not
13 be construed to create any liability on the part of a participant in a
14 youth sports event or to abrogate any immunity or defense available
15 to a participant in a youth sports event. As used in this act, "school
16 or community sponsored youth sports event" means a competition,
17 practice, or instructional event involving one or more
18 interscholastic sports teams or youth sports teams organized
19 pursuant to a nonprofit or similar charter or which are member
20 teams in a youth league organized by or affiliated with a county or
21 municipal recreation department and shall not include collegiate,
22 semi-professional or professional sporting events.

23 (cf: P.L.2021, c.352, s.1)

24

25 4. N.J.S.2C:20-11 is amended to read as follows:

26 a. Definitions. The following definitions apply to this section:

27 (1) "Shopping cart" means those push carts of the type or types
28 which are commonly provided by grocery stores, drug stores or
29 other retail mercantile establishments for the use of the public in
30 transporting commodities in stores and markets and, incidentally,
31 from the stores to a place outside the store;

32 (2) "Store or other retail mercantile establishment" means a
33 place where merchandise is displayed, held, stored or sold or
34 offered to the public for sale;

35 (3) "Merchandise" means any goods, chattels, foodstuffs or
36 wares of any type and description, regardless of the value thereof;

37 (4) "Merchant" means any owner or operator of any store or
38 other retail mercantile establishment, or any agent, servant,
39 employee, lessee, consignee, officer, director, franchisee or
40 independent contractor of such owner or proprietor;

41 (5) "Person" means any individual or individuals, including an
42 agent, servant or employee of a merchant where the facts of the
43 situation so require;

44 (6) "Conceal" means to conceal merchandise so that, although
45 there may be some notice of its presence, it is not visible through
46 ordinary observation;

47 (7) "Full retail value" means the merchant's stated or advertised
48 price of the merchandise;

1 (8) "Premises of a store or retail mercantile establishment"
2 means and includes but is not limited to, the retail mercantile
3 establishment; any common use areas in shopping centers and all
4 parking areas set aside by a merchant or on behalf of a merchant for
5 the parking of vehicles for the convenience of the patrons of such
6 retail mercantile establishment;

7 (9) "Under-ring" means to cause the cash register or other sale
8 recording device to reflect less than the full retail value of the
9 merchandise;

10 (10) "Antishoplifting or inventory control device
11 countermeasure" means any item or device which is designed,
12 manufactured, modified, or altered to defeat any antishoplifting or
13 inventory control device;

14 (11) "Organized retail theft enterprise" means any association of
15 two or more persons who engage in the conduct of or are associated
16 for the purpose of effectuating the transfer or sale of shoplifted
17 merchandise.

18 b. Shoplifting. Shoplifting shall consist of any one or more of
19 the following acts:

20 (1) For any person purposely to take possession of, carry away,
21 transfer or cause to be carried away or transferred, any merchandise
22 displayed, held, stored or offered for sale by any store or other retail
23 mercantile establishment with the intention of depriving the
24 merchant of the possession, use or benefit of such merchandise or
25 converting the same to the use of such person without paying to the
26 merchant the full retail value thereof.

27 (2) For any person purposely to conceal upon his person or
28 otherwise any merchandise offered for sale by any store or other
29 retail mercantile establishment with the intention of depriving the
30 merchant of the processes, use or benefit of such merchandise or
31 converting the same to the use of such person without paying to the
32 merchant the value thereof.

33 (3) For any person purposely to alter, transfer or remove any
34 label, price tag or marking indicia of value or any other markings
35 which aid in determining value affixed to any merchandise
36 displayed, held, stored or offered for sale by any store or other retail
37 mercantile establishment and to attempt to purchase such
38 merchandise personally or in consort with another at less than the
39 full retail value with the intention of depriving the merchant of all
40 or some part of the value thereof.

41 (4) For any person purposely to transfer any merchandise
42 displayed, held, stored or offered for sale by any store or other retail
43 merchandise establishment from the container in or on which the
44 same shall be displayed to any other container with intent to deprive
45 the merchant of all or some part of the retail value thereof.

46 (5) For any person purposely to under-ring with the intention of
47 depriving the merchant of the full retail value thereof.

1 (6) For any person purposely to remove a shopping cart from the
2 premises of a store or other retail mercantile establishment without
3 the consent of the merchant given at the time of such removal with
4 the intention of permanently depriving the merchant of the
5 possession, use or benefit of such cart.

6 c. Gradation. (1) Shoplifting constitutes a crime of the second
7 degree under subsection b. of this section if the full retail value of
8 the merchandise is \$75,000 or more, or the offense is committed in
9 furtherance of or in conjunction with an organized retail theft
10 enterprise and the full retail value of the merchandise is \$1,000 or
11 more.

12 (2) Shoplifting constitutes a crime of the third degree under
13 subsection b. of this section if the full retail value of the
14 merchandise exceeds \$500 but is less than \$75,000, or the offense
15 is committed in furtherance of or in conjunction with an organized
16 retail theft enterprise and the full retail value of the merchandise is
17 less than \$1,000.

18 (3) Shoplifting constitutes a crime of the fourth degree under
19 subsection b. of this section if the full retail value of the
20 merchandise is at least \$200 but does not exceed \$500.

21 (4) Shoplifting is a disorderly persons offense under subsection
22 b. of this section if the full retail value of the merchandise is less
23 than \$200.

24 The ¹**total**¹ value of the merchandise involved in a violation or
25 ¹**in**¹ multiple violations of this section may be aggregated ¹**within**¹
26 **the previous one-year period**¹ in determining the grade of the
27 offense where the acts or conduct constituting a violation were
28 committed pursuant to one scheme or course of conduct, whether
29 from the same person or several persons ¹**and regardless of the time**¹
30 **period over which the scheme or course of conduct took place**¹, or
31 were committed in furtherance of or in conjunction with an
32 organized retail theft enterprise.

33 Additionally, notwithstanding the term of imprisonment provided
34 in N.J.S.2C:43-6 or 2C:43-8, any person convicted of a shoplifting
35 offense shall be sentenced to perform community service as
36 follows: for a first offense, at least ten days of community service;
37 for a second offense, at least 15 days of community service; and for
38 a third or subsequent offense, a maximum of 25 days of community
39 service and any person convicted of a third or subsequent
40 shoplifting offense shall serve a minimum term of imprisonment of
41 not less than 90 days.

42 d. Presumptions. Any person purposely concealing
43 unpurchased merchandise of any store or other retail mercantile
44 establishment, either on the premises or outside the premises of
45 such store or other retail mercantile establishment, shall be prima
46 facie presumed to have so concealed such merchandise with the
47 intention of depriving the merchant of the possession, use or benefit
48 of such merchandise without paying the full retail value thereof,

1 and the finding of such merchandise concealed upon the person or
2 among the belongings of such person shall be prima facie evidence
3 of purposeful concealment; and if such person conceals, or causes
4 to be concealed, such merchandise upon the person or among the
5 belongings of another, the finding of the same shall also be prima
6 facie evidence of willful concealment on the part of the person so
7 concealing such merchandise.

8 e. A law enforcement officer, or a special officer, or a
9 merchant, who has probable cause for believing that a person has
10 willfully concealed unpurchased merchandise and that he can
11 recover the merchandise by taking the person into custody, may, for
12 the purpose of attempting to effect recovery thereof, take the person
13 into custody and detain him in a reasonable manner for not more
14 than a reasonable time, and the taking into custody by a law
15 enforcement officer or special officer or merchant shall not render
16 such person criminally or civilly liable in any manner or to any
17 extent whatsoever.

18 Any law enforcement officer may arrest without warrant any
19 person he has probable cause for believing has committed the
20 offense of shoplifting as defined in this section.

21 A merchant who causes the arrest of a person for shoplifting, as
22 provided for in this section, shall not be criminally or civilly liable
23 in any manner or to any extent whatsoever where the merchant has
24 probable cause for believing that the person arrested committed the
25 offense of shoplifting.

26 f. Any person who possesses or uses any antishoplifting or
27 inventory control device countermeasure within any store or other
28 retail mercantile establishment is guilty of a disorderly persons
29 offense.

30 (cf: P.L.2006, c.56, s.1)

31

32 ¹[5. Section 2 of P.L.2006, c.56 (C.2C:20-11.2) is amended to
33 read as follows:

34 2. A person is a leader of an organized retail theft enterprise if
35 he conspires with others as an organizer, supervisor, financier or
36 manager, to engage for profit in a scheme or course of conduct to
37 effectuate the transfer or sale of shoplifted merchandise. Leader of
38 organized retail theft enterprise is a crime of the **[second]** first
39 degree. Notwithstanding the provisions of subsection a. of
40 N.J.S.2C:43-3, the court may impose a fine not to exceed \$250,000
41 or five times the retail value of the merchandise seized at the time
42 of the arrest, whichever is greater.

43 Notwithstanding the provisions of N.J.S.2C:1-8, a conviction of
44 leader of organized retail theft enterprise shall not merge with the
45 conviction for any offense which is the object of the conspiracy.
46 Nothing contained in this section shall prohibit the court from
47 imposing an extended term pursuant to N.J.S.2C:43-7; nor shall this
48 section be construed in any way to preclude or limit the prosecution

1 or conviction of any person for conspiracy under N.J.S.2C:5-2, or
2 any prosecution or conviction for any other offense.

3 It shall not be necessary in any prosecution under this section for
4 the State to prove that any intended profit was actually realized. The
5 trier of fact may infer that a particular scheme or course of conduct
6 was undertaken for profit from all of the attending circumstances,
7 including but not limited to the number of persons involved in the
8 scheme or course of conduct, the actor's net worth and his
9 expenditures in relation to his legitimate sources of income, the
10 amount of merchandise involved, or the amount of cash or currency
11 involved.

12 It shall not be a defense to a prosecution under this section that
13 any shoplifted merchandise was brought into or transported in this
14 State solely for ultimate distribution in another jurisdiction; nor
15 shall it be a defense that any profit was intended to be made in
16 another jurisdiction.

17 (cf: P.L.2006, c.56, s.2)]¹

18

19 ¹[6.] 5.¹ (New section) a. Upon request of the prosecutor, a
20 person who has been convicted of shoplifting pursuant to
21 N.J.S.2C:20-11, receiving stolen property pursuant to N.J.S.2C:20-
22 7, leader of organized retail theft enterprise pursuant to section 2 of
23 P.L.2006, c.56 (C.2C:20-11.2); or theft as defined in chapter 20 of
24 Title 2C of the New Jersey Statutes that involves the stealing of
25 merchandise from a retail mercantile establishment shall be
26 sentenced to an extended term of imprisonment pursuant to
27 N.J.S.2C:43-7 if the person has previously been convicted on two or
28 more prior and separate occasions, regardless of the dates of the
29 convictions, in accordance with the provisions of subsection b. of
30 this section, for a violation of paragraphs (1) or (2) of subsection c.
31 of N.J.S.2C:20-11, N.J.S.2C:20-7, section 2 of P.L.2006, c.56
32 (C.2C:20-11.2), or theft as defined in chapter 20 of Title 2C of the
33 New Jersey Statutes involving the stealing of merchandise, or a
34 crime under any statute of the United States, this State, or any other
35 state for a crime that is substantially equivalent to a violation of
36 shoplifting, leader of organized retail theft enterprise, or theft
37 involving merchandise.

38 b. The provisions of this section shall not apply unless the prior
39 convictions are for crimes committed on separate occasions and the
40 crime for which the defendant is being sentenced was committed
41 either:

42 (1) within 10 years of the date of the defendant's last release
43 from confinement for the commission of any crime; or

44 (2) within 10 years of the date of the commission of the most
45 recent of the crimes enumerated in subsection a. of this section for
46 which the defendant has a prior conviction.

47 c. Prior convictions shall be defined and proven in accordance
48 with N.J.S.2C:44-4.

1 d. The court shall not impose a sentence of imprisonment
2 pursuant to this section unless the ground therefor has been
3 established at a hearing after the conviction of the defendant and on
4 written notice to the defendant of the ground proposed. The
5 defendant shall have the right to hear and controvert the evidence
6 against him and to offer evidence upon the issue.

7
8 ¹~~7.1~~ 6.¹ (New section) a. The Attorney General shall ¹~~in~~, in
9 consultation with the Director of the Division of Criminal Justice,
10 ~~establish~~ undertake such steps as the Attorney General deems
11 appropriate to promote the effective investigation, prosecution, and
12 deterrence of organized retail theft in this State, which may include
13 establishing¹ a retail theft unit ¹, task force,¹ or other appropriate
14 office ¹or initiative¹ in the Department of Law and Public Safety to
15 combat organized retail theft ¹~~in this State. The Attorney General~~
16 ~~shall~~ or the implementation of a Statewide policy to direct and
17 coordinate State and local law enforcement efforts to¹ investigate
18 ¹~~in this State. The Attorney General shall~~ and¹ prosecute organized
19 retail theft.

20 b. (1). In a manner prescribed by the Attorney General, a
21 county prosecutor, law enforcement officer, special officer, or retail
22 merchant may notify the Division of Criminal Justice ¹, or other
23 entity within the Department of Law and Public Safety designated
24 by the Attorney General to receive notice,¹ of allegations that a
25 crime of retail theft was committed.

26 (2) In a manner prescribed by the Attorney General, a county
27 prosecutor shall notify the Division of Criminal Justice ¹, or other
28 entity within the Department of Law and Public Safety designated
29 by the Attorney General to receive notice,¹ that a crime of retail
30 theft was allegedly committed by a defendant if:

31 (a) there is probable cause that the defendant has committed two
32 or more acts of retail theft in the State;

33 (b) there is probable cause that the defendant has committed one
34 or more acts of retail theft in this State and one or more acts of
35 retail theft in another state; or

36 (c) the defendant has previously been convicted of retail theft in
37 this State or another state.

38 c. ¹~~The~~ In addition to any other authority provided under the
39 law, the¹ Division of Criminal Justice shall have the authority to:

40 (1) investigate and, if warranted, prosecute cases concerning
41 acts of retail theft; and

42 (2) assist county prosecutors in the investigation and prosecution
43 of acts of retail theft.

44 d. As used in this section, “retail theft” shall include the crimes
45 of shoplifting pursuant to N.J.S.2C:20-11; leader of organized retail
46 theft enterprise pursuant to section 2 of P.L.2006, c.56 (C.2C:20-

1 11.2); or theft as defined in chapter 20 of Title 2C of the New
2 Jersey Statutes that involves the stealing of merchandise.

3

4 ¹**[8.] 7.**¹ Section 19 of P.L.1987, c.76 (C.54:52-9) is amended
5 to read as follows:

6 19. a. A person is guilty of a crime ¹**[of the third degree]**¹ if he
7 fails to pay or turn over when due any tax, fee, penalty or interest or
8 any part thereof required to be paid pursuant to the provisions of the
9 State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., as amended
10 and supplemented, or any State tax law, with the intent to evade,
11 avoid or otherwise not make timely payment or deposit of any tax,
12 fee, penalty or interest or any part thereof. The crime shall be of
13 the second degree if ¹**[a person fails to pay or turn over when due**
14 any] any portion of the¹ tax, fee, penalty or interest or any part
15 thereof required to be paid ¹**[in connection with the person being a**
16 leader of an organized retail theft enterprise] or turned over was
17 accrued through conduct committed¹ in violation ¹of¹ section 2 of
18 P.L.2006, c.56 (C.2C:20-11.2) ¹, otherwise it shall be a crime of the
19 third degree¹.

20 b. The fact that any payment was made with a subsequently
21 dishonored negotiable instrument shall constitute prima facie
22 evidence that the actor failed to pay within the meaning of
23 subsection a. of this section, and the trier of fact may draw a
24 permissive inference therefrom that the actor did not intend to make
25 the payment.

26 (cf: P.L.1987, c.76, s.19)

27

28 ¹**[9.] 8.**¹ Section 25 of P.L.1987, c.76 (C.54:52-15) is
29 amended to read as follows:

30 25. A person is guilty of a crime of the third degree if ¹**[he]**¹,
31 after having collected or withheld taxes as required by any State tax
32 law, whether or not ¹**[he]** the person¹ is authorized, licensed, or
33 registered to collect or withhold taxes, ¹the person¹ purposely fails
34 to turn over the taxes to the Director of the Division of Taxation in
35 the manner and at the time prescribed by law. The crime shall be of
36 the second degree if the amount of the tax collected or withheld is
37 \$75,000.00 or more, or if the ¹**[person is a leader of]** taxes the
38 person failed to turn over to the Director of the Division of Taxation
39 were collected or withheld as part of¹ an organized retail theft
40 enterprise in violation of section 2 of P.L.2006, c.56 (C.2C:20-
41 11.2).

42 (cf: P.L.1987, c.76, s.25)

43

44 ¹**[10.] 9.**¹ Section 1 of P.L.2021, c.431 (C.56:8-110.1) is
45 amended to read as follows:

1 1. a. Every retail mercantile establishment in this State that
2 displays ¹["open-loop gift cards or closed-loop"]¹ gift cards for sale
3 shall train employees on how to identify and respond to ¹["open-
4 loop gift card or closed-loop"]¹ gift card fraud. A retail mercantile
5 establishment shall conduct the training in accordance with
6 guidelines issued pursuant to section 2 of **[this act]** P.L.2021, c.431
7 (C.56:8-110.2).

8 b. A retail mercantile establishment that violates the provisions
9 of this section or section 10 of P.L. _____, c. _____ (C. _____) (pending
10 before the Legislature as this bill) shall be subject to a civil penalty
11 of \$1,000, which may be collected and enforced by the Director of
12 the Division of Consumer Affairs in the Department of Law and
13 Public Safety in a summary proceeding pursuant to the "Penalty
14 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
15 The Superior Court shall have jurisdiction of proceedings for the
16 enforcement of the penalty provided by this section.

17 A violation of this section shall not be considered an unlawful
18 practice in violation of P.L.1960, c.39 (C.56:8-1 et seq.).

19 c. As used in ¹**[this]**¹ **[section]** P.L.2021, c.431 ¹(C.56:8-110.1
20 et seq.)¹, and section 10 of P.L. _____, c. _____ (C. _____) (pending before the
21 Legislature as this bill):

22 ¹["Closed-loop gift card" means a gift card, code or device that
23 is:

24 (1) issued to a consumer on a prepaid basis primarily for
25 personal, family, or household purposes in a specified amount,
26 regardless of whether that amount may be increased or reloaded in
27 exchange for payment; and

28 (2) redeemable on presentation by a consumer at a single retail
29 mercantile establishment or a group of affiliated retail mercantile
30 establishments.]¹

31 "Gift card" means a tangible device, whereon is embedded or
32 encoded in an electronic or other format a value issued in exchange
33 for payment, which promises to provide to the bearer merchandise
34 of equal value to the remaining balance of the device. ¹A "gift
35 card" shall not include a stored value reloadable card as defined in
36 subsection k. of section 5 of P.L.2010, c.25 (C.46:30B-42.1).¹

37 "Merchandise" means any objects, wares, goods, commodities,
38 services, or anything offered, directly or indirectly, to the public for
39 sale.

40 ¹["Open-Loop Gift Card" means a card, code, or device that is:

41 (1) issued to a consumer on a prepaid basis primarily for
42 personal, family, or household purposes in a specified amount,
43 regardless of whether that amount may be increased or reloaded in
44 exchange for payment;

1 (2) payment card network branded; and
2 (3) redeemable on presentation at multiple unaffiliated merchants
3 for goods or services within the payment card network or usable at
4 an automated teller machine.】¹

5 “Retail mercantile establishment” means any place of business
6 where merchandise is exposed or offered for sale at retail to
7 members of the consuming public.

8 “Third-Party Gift Card Reseller” means a merchant who, without
9 authorization from or affiliation with the business entity issuing
10 ’[an open- or closed-loop] a¹ gift card, is engaged in the business
11 of:

12 (1) buying ’[an open- or closed-loop]’ gift cards on behalf of
13 consumers; or

14 (2) reselling ’[an open- or closed-loop]’ gift cards to consumers.
15 (cf: P.L.2021, c.431, s.1)

16

17 ’**[11.] 10.**¹ (New section) a. The Director of the Division of
18 Consumer Affairs in the Department of Law and Public Safety shall
19 create and ’**[provide] make available on its Internet website**¹ a
20 notice to ’**customers of**¹ retail mercantile establishments which
21 shall include, but not be limited to:

22 (1) the risk of gift card scams; and

23 (2) available assistance, including from the Division of
24 Consumer Affairs, a consumer may seek if the consumer suspects
25 they may be a victim of a gift card scam.

26 b. (1) ’**[Except as provided in subsection e. of this section, a]**
27 **A**¹ retail mercantile establishment may not knowingly sell ’**[an**
28 **open-loop gift card or closed-loop] a**¹ gift card to a consumer
29 unless the retail mercantile establishment conspicuously displays a
30 notice in a form as prescribed by the Director of the Division of
31 Consumer Affairs in accordance with subsection a. of this section.

32 (2) For in-person sales, the notice shall be placed at or near the
33 physical location where the ’**[open-loop]’** gift card is displayed for
34 sale or where the ’**[sale of the open-loop]’** gift card ’**[is sold] sales**
35 **transaction takes place**¹.

36 (3) For online sales of ’**[open-loop]’** gift cards, the notice shall
37 be displayed on the webpage where the gift card is offered for sale
38 or before the sale is finalized.

39 c. ’**[For the sale of an open-loop] Except as otherwise**
40 **provided in subsection d. of this section, a retail mercantile**
41 **establishment may not display or sell a**¹ gift card ’**[pursuant to**
42 **paragraph (2) of subsection b., the gift card shall be enclosed in**
43 **packaging that] unless**¹:

44 (1) ’the gift card or its packaging includes in a manner visible to
45 potential purchasers when on display a warning that states “Do not

1 sell or purchase if the gift card or its packaging has been broken or
2 indicates tampering” or that uses substantially similar language;

3 (2) the gift card, if enclosed in packaging,¹ is sealed in a manner
4 that is not easily opened ¹, removed, or replaced¹ without signs of
5 tampering;

6 ¹[(2) except as provided in paragraph (3) of this subsection,
7 conceals] and

8 (3) regardless of whether the gift card is or is not enclosed in
9 packaging,¹ all ¹[(numeric codes specific to the activation or the
10 redemption of the gift] visible numbers such as a¹ card ¹[(,
11 including any bar code] number¹, CVV number, ¹[pin] or a PIN¹
12 number¹, or activation code;

13 (3) displays an activation code, bar code, or other activation data
14 only if the packaging used is more secure than it otherwise would
15 be if the data were fully concealed; and

16 (4) includes a warning that states the following or uses language
17 substantially similar to the following: “Do not sell or purchase if
18 packaging has been broken or indicates tampering.”¹ that can be
19 used for balance inquiries or manual entry redemption are either
20 fully concealed or covered, or otherwise made unavailable prior to
21 sale or, only if the gift card is enclosed in packaging that is
22 designed to make the gift card more secure than full concealment or
23 covering otherwise would, are partially concealed or covered.¹

24 d. ¹[For the sale of a closed-loop gift card, the gift card shall
25 be enclosed in packaging that:

26 (1) conceals or covers, in a manner that is not easily removed or
27 replaced without signs of tampering, all numeric codes specific to
28 the redemption of the gift card; or

29 (2) if made more secure through partial concealment or covering
30 than full concealment or covering pursuant to paragraph (1) of this
31 subsection, partially conceals or covers, in a manner that is not
32 easily removed or replaced without signs of tampering, all numeric
33 codes specific to redemption of the gift card; and

34 (3) includes a warning that states the following or uses language
35 substantially similar to the following: “Do not sell or purchase if
36 packaging has been broken or indicates tampering.”

37 e.¹ A retail mercantile establishment may ¹display or¹ sell ¹[an
38 open- or closed loop] a¹ gift card that ¹[is not enclosed in secured
39 packaging pursuant to] does not conform to the requirements of
40 paragraphs (2) and (3) of¹ subsection c. ¹[or d.]¹ of this section if:

41 (1) the gift card is a chip-enabled, numberless card that is
42 activated by a consumer after registering the card on the card
43 issuer’s website; ¹[or]¹

44 (2) the gift card is:

45 (a) sold exclusively by a retail mercantile establishment for use
46 only at the retail mercantile establishment or a group of affiliated

1 retail mercantile establishments for use at the retail mercantile
2 establishments of the affiliated establishments; and

3 (b) is secured in a physical location within the retail mercantile
4 establishment that is accessible only by an employee ¹, or

5 (3) the gift card or its packaging:

6 (a) incorporates technology that is designed to prevent
7 activation if the gift card or its packaging has been subjected to
8 tampering; or

9 (b) incorporates technology that is designed to detect and prevent
10 unauthorized redemption¹.

11 ¹**[f.] e.**¹ (1) When a third-party gift card reseller buys or sells
12 ¹**[an open-loop] a**¹ gift card as part of a transaction occurring in
13 this State, the reseller shall record and, for at least three years,
14 maintain a copy of the following information as applicable:

15 (a) the date of the transaction;

16 (b) the name of the person who conducted the transaction;

17 (c) the name, age, and address of the seller of the gift card;

18 (d) the seller's and consumer's driver's license number or
19 identification card number;

20 (e) a description of the purchased gift card, including, but not
21 limited to, the retailer for which the gift card is intended for use and
22 the gift card number;

23 (f) the specific amount issued on the gift card;

24 (g) the transaction price;

25 (h) the signature of the consumer.

26 (2) The information recorded and maintained pursuant to this
27 section shall be chronologically written in ink or logged into a
28 secure database, software system, or other similar technology
29 platform.

30 (3) Except as provided in paragraph (4) of this subsection,
31 recorded information may not be destroyed, altered, or erased.

32 (4) A handwritten correction may be made to an entry of
33 information by drawing a line of ink through the entry in a manner
34 that retains legibility.

35 (5) Information recorded pursuant to this subsection shall be
36 open to inspection by any duly authorized law enforcement officer
37 in this State during the ordinary business hours of the third-party
38 gift card reseller or at other reasonable time.

39 f. A third-party gift card reseller, including an agent or
40 employee of the third-party gift card reseller may not:

41 (1) fail to make an entry of or falsify, destroy, or remove any
42 information required to be recorded and maintained pursuant to this
43 section;

44 (2) refuse to allow any duly authorized law enforcement officer
45 in this State to inspect a record of information or ¹**[open- or closed-**
46 **loop] the¹** gift cards in the reseller's possession; or

47 (3) fail to maintain a record in pursuant to this section.

1 g. Upon ¹~~the filing of an official report to~~ request of¹ a law
2 enforcement agency ¹~~by any person alleging to be a victim~~
3 conducting an investigation into allegations¹ of theft of one or more
4 ¹~~open- or closed-loop~~¹ gift cards ¹~~with an aggregate value~~
5 exceed \$500, law enforcement may request that ¹~~.~~¹ the issuer of the
6 gift cards or the issuer's agents ¹shall¹ preserve and provide law
7 enforcement ¹with¹ all relevant evidence ¹so requested¹.

8
9 ¹~~12.~~ There is appropriated from the General Fund to the
10 Department of Law and Public Safety the sum of \$1,000,000 to
11 effectuate the provisions of this act. ¹

12
13 ¹~~13.~~ 11.¹ This act shall take effect immediately, except that
14 sections ¹~~7,~~ ¹9 and ¹~~10~~ ¹shall remain inoperative until October 1,
15 2025, but the Director of the Division of Consumer Affairs may
16 take such anticipatory action as may be necessary to effectuate the
17 provisions of those sections¹, and ¹~~11~~ ¹section 6¹ shall take effect
18 on the 180th day after the date of enactment.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 3587

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 20, 2025

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 3587.

This bill, as amended, makes various changes to State law related to retail theft. The bill upgrades certain crimes related to retail theft, permits certain defendants to be sentenced to extended terms of imprisonment, addresses gift card fraud, and provides for the Attorney General to take actions to promote the effective investigation, prosecution, and deterrence of organized retail theft.

Aggravated Assault of Store Employees

The bill upgrades any simple assault to an aggravated assault when committed against an employee of a store or other retail mercantile establishment. An employee is defined as “any person who provides customer assistance, store management, visual merchandising, loss prevention or security services, whether in uniform or in plain clothes, or who acts as a cashier, salesperson, or team associate or otherwise interacts with customers for or on behalf of the store or other retail mercantile establishment.”

Aggravated assault of an employee of a store or other retail mercantile establishment is a crime of the third degree if the victim suffers bodily injury, otherwise it is a crime of the fourth degree. A third degree crime is ordinarily punishable by three to five years imprisonment, a fine of up to \$15,000, or both. A fourth degree crime is ordinarily punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both.

Tax Evasion; Failure to Turnover Taxes Collected or Withheld

The bill upgrades to a second-degree crime the failure to pay any portion of a tax, fee, penalty, or interest due or required to be paid or turned over if accrued through conduct committed in connection with being the leader of an organized retail theft enterprise. Under current law, the failure by anyone to pay or turn over such is a third-degree crime.

Relatedly, the bill upgrades to a second-degree crime a purposeful failure to turn over taxes to the State that were collected or withheld as part of an organized retail theft enterprise, regardless of the amount

collected or withheld. Under current law, this act constitutes a second-degree crime only if the amount collected or withheld is \$75,000 or more, otherwise it is a third-degree crime.

For both related acts, the second-degree crime is ordinarily punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

Persistent Offender

The bill provides that a person may be sentenced to an extended term of imprisonment for repeat convictions related to retail theft.

Under the bill, a person is considered to be a persistent offender if the person has previously been convicted on two or more prior and separate occasions of receiving stolen property, a second- or third-degree shoplifting crime, being a leader of an organized retail theft enterprise, or theft that involves the stealing of merchandise, regardless of the dates of the convictions, and the person is currently facing conviction again for having committed one of those offenses or shoplifting that constitutes a lower fourth-degree crime or disorderly persons offense. A persistent offender may be sentenced to an extended term, upon motion of the prosecutor, if the crime for which the person is currently being sentenced was committed either: (1) within 10 years of the date of the defendant's last release from confinement for the commission of any crime; or (2) within 10 years of the date of the commission of the most recent retail theft crime described above for which the defendant has a prior conviction.

Aggregation of Merchandise Value to Grade Shoplifting Violations

The bill provides that the value of merchandise involved in a violation or in multiple violations may be aggregated to determine the grade of a shoplifting offense (with a higher value triggering a more serious grading and level of punishment), when the acts or conduct constituting a violation were committed pursuant to "one scheme or course of conduct, whether from the same person or several persons and regardless of the time period" over which the scheme or course of conduct occurred.

Fencing

The bill updates the fencing statute, section 7 of P.L.1981, c.167 (C.2C:20-7.1), to clarify that a person is guilty of dealing in stolen property if done so through the use of an online platform via any electronic device or through a social media site. A fencing violation is graded similarly to shoplifting (and other theft offenses) in that the value of the property involved determines the grading level of the offense, and this value may be aggregated when the acts or conduct constituting a violation were committed pursuant to one scheme or course of conduct.

Fostering Stolen Property

The bill also separately establishes the new offense of fostering the sale of stolen property. The act would be graded as a disorderly persons offense, and punishable by a term of imprisonment of up to six months, a fine of up to \$1,000, or both.

A person commits a fostering offense under the bill when, acting alone or in concert with another person, the person advertises or otherwise assists, by any means, in the sale of property of another knowing that it has been stolen or reasonably believing that it is stolen. The bill establishes two presumptions that may be used in prosecuting a fostering offense:

- proof of the property being advertised for sale at a price substantially below its fair market value, unless satisfactorily explained, gives rise to an inference that the person advertising or otherwise assisting in the sale of the property knew that it is stolen or reasonably believed that it is stolen; and
- proof that a person advertised or otherwise assisted in the sale of the property without having ascertained by reasonable inquiry that the person offering the property for sale had a legal right to possess or control it creates an inference that such person knew that it was stolen or reasonably believed that it is stolen.

Gift Card Fraud

The bill requires the Division of Consumer Affairs in the Department of Law and Public Safety to create and make available on the division's website a notice for customers of retail mercantile establishments concerning the risk of "gift card scams" and available sources of assistance if a customer suspects being the victim of a scam. An establishment would be required to display the notice at or near the physical location where the gift card is displayed for sale or where the sales transaction takes place as well as display it on the Internet webpage where the gift card is offered or before the sale is finalized.

The bill would also impose certain packaging requirements for sales of gift cards or alternatively require the cards to include security features or be secured in a physical location accessible only by the employees of a retail mercantile establishment. A retail mercantile establishment could not display or sell a gift card unless:

- the card or its packaging includes, in a manner visible to potential purchasers when on display, a warning that states "Do not sell or purchase if the gift card or its packaging has been broken or indicates tampering" or that uses substantially similar language;
- the card, if enclosed in packaging, is sealed in a manner that is not easily opened, removed, or replaced without signs of tampering; and
- regardless of "whether the gift card is or is not enclosed in packaging, all visible numbers such as a card number, CVV number, or a PIN number that can be used for balance inquiries or manual entry

redemption are either fully concealed or covered, or otherwise made unavailable prior to sale or, only if the gift card is enclosed in packaging that is designed to make the gift card more secure than full concealment or covering otherwise would, are partially concealed or covered.”

A gift card that is not secured as heretofore described could be sold if it is a chip-enabled, numberless card that is activated after registration on the card issuer’s website, the gift card is sold exclusively by a retail mercantile establishment for use only at that establishment or sold by a group of affiliated establishments for use at those affiliated establishments and is secured in a physical location within an establishment that is accessible only by employees, or the card or its packaging incorporates technology to either prevent activation if the card or packaging has been tampered with or is designed to detect and prevent unauthorized redemption.

A retail mercantile establishment that violates any of the bill’s provisions related to consumer notices on gift card fraud or the sales of gift cards would be subject to a civil penalty of \$1,000, collected and enforced by the Director of the Division of Consumer Affairs.

The bill also establishes requirements for third-party gift card resellers. The bill defines a third-party gift card reseller as a “merchant who, without authorization from or affiliation with the business entity issuing a gift card, is engaged in the business of: (1) buying gift cards on behalf of consumers; or (2) reselling gift cards to consumers.” These resellers would be subject to certain record maintenance requirements, generally retaining records for at least three years, for transactions occurring in this State, which would include information about: the transaction date; the transaction price; the name, age, and address of the gift card seller; the seller’s and consumer’s driver’s license number or identification card number; the consumer’s signature; and the specified amount issued on the gift card. These resellers would be prohibited from refusing to allow any duly authorized law enforcement officer in this State to inspect a record of information as well as any gift cards in its possession.

Attorney General Initiatives

The bill requires the Attorney General, in consultation with the Director of the Division of Criminal Justice, to undertake actions the Attorney General deems appropriate to promote the effective investigation, prosecution, and deterrence of organized retail theft in this State. These actions could include establishing a retail theft unit, task force, or other appropriate office or an initiative in the Department of Law and Public Safety. The Attorney General could also implement a Statewide policy to direct and coordinate State and local law enforcement efforts to investigate and prosecute organized retail theft. In furtherance of coordinating such efforts, the bill would require county prosecutors to notify the Division of Criminal Justice or

other entity within the department designated by the Attorney General that a retail theft crime involving shoplifting, theft of merchandise under the general theft statutes in chapter 20 of Title 2C of the New Jersey Statutes, or leader of an organized retail theft enterprise, was allegedly committed by a defendant if: (1) there is probable cause that the defendant committed two or more acts of retail theft in this State or one or more acts in this State plus one or more such acts in another state; or (2) the defendant has previously been convicted of retail theft in this State or another state.

Effective Date

While the bill generally takes effect immediately, the sections dealing with gift card fraud would remain inoperative until October 1, 2025 and the provisions concerning potential actions by the Attorney General to promote the effective investigation, prosecution, and deterrence of organized retail theft would take effect on the 180th day after the date of enactment.

The committee amendments to the bill:

- expressly indicate that a person may be guilty of fostering the sale of stolen property by “acting alone or in concert with another person or persons” and acting “by any means” including online platforms;
- establish as an element of the fostering offense that the person either knows the property is stolen or reasonably believing that it is stolen;
- create two presumptions concerning a determination of a defendant’s mental state for a fostering offense: (1) when the person knows property was advertised for sale at a price substantially below its fair market value; and (2) when the person fails to ascertain by reasonable inquiry that the person offering the property for sale had a legal right to possess or control it;
- expand the upgrading of an assault on an employee of a retail mercantile establishment to include the assault against an employee of any store where merchandise is displayed, held, stored or sold or offered to the public for sale (see N.J.S.2C:20-11 for the relevant definition of “store or other retail mercantile establishment”);
- eliminate, for shoplifting offenses involving one scheme or course of conduct, the aggregation of the value of merchandise involved over only a previous one-year period for grading violations and instead permit aggregation without regard to the time period over which the actions occurred;
- remove the section that would have upgraded the crime of leader of an organized retail theft enterprise from a second-degree to a first-degree crime;
- provide that the Attorney General shall “undertake steps . . . deem[ed] appropriate” to promote the effective investigation,

prosecution, and deterrence of organized retail theft instead of requiring the creation of a retail theft unit or other office to address organized retail theft;

- require that the new consumer notice on gift card fraud created by the Director of the Division of Consumer Affairs be made available on the division's Internet website;

- eliminate the separate definitions and packing and security requirements for "open-loop" and "closed-loop" gift cards, and instead apply the bill's requirements uniformly to all gift cards;

- mandate that a third-party gift card reseller preserve and provide, upon the request of law enforcement, all relevant evidence when it is conducting an investigation into allegations of gift card theft;

- eliminate a \$1,000,000 appropriation to support administration of the bill;

- revise the effective date so that the sections dealing with gift card fraud would remain inoperative until October 1, 2025 and the provisions concerning potential actions by the Attorney General to promote the effective investigation, prosecution, and deterrence of organized retail theft would take effect on the 180th day after the date of enactment; and

- update the synopsis to reflect the changes made by the committee amendments.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3587 STATE OF NEW JERSEY 221st LEGISLATURE

DATED: FEBRUARY 27, 2025

SUMMARY

- Synopsis:** Upgrades, and in some circumstances provides for extended terms of imprisonment for, certain retail theft crimes, addresses gift card fraud, and authorizes new Attorney General initiatives to address organized retail theft.
- Type of Impact:** Annual State and local expenditure and revenue increases.
- Agencies Affected:** The Judiciary; Department of Law and Public Safety; Department of Corrections; State Parole Board; Office of the Public Defender; Counties; Municipalities.

Office of Legislative Services Estimate

Annual Fiscal Impact	
State Expenditure Increase	Indeterminate
State Revenue Increase	Indeterminate
Local Expenditure Increase	Indeterminate
Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that establishing and upgrading certain crimes related to retail theft and sentencing certain defendants to extended prison terms may result in an indeterminate annual increase in State and local expenditures and revenues. The OLS lacks sufficient information to quantify the fiscal impact, as it is not possible to estimate the number of crimes likely to be committed under the provisions of this bill or how many persistent offenders will be sentenced to extended prison terms.
- The OLS finds that the following State and local agencies may incur caseload and expenditure increases: a) the Department of Law and Public Safety may have to prosecute additional cases; b) county prosecutors may also have to prosecute additional cases; c) the Judiciary may have to adjudicate additional complaints and monitor additional probationers; d) the Office of the Public Defender may have to represent additional low income defendants; e) the Department of Corrections may have to house and care for additional offenders for routine and extended

prison sentences; and f) the State Parole Board may have to supervise the return to society of additional offenders. In addition, the Department of Law and Public Safety may establish a special unit or task force to combat retail theft.

- The OLS notes that the State may receive indeterminate revenues from regular and enhanced fines imposed on individuals convicted of these crimes; however, the State's ability to collect fines has historically been limited.
- The bill establishes the offense of fostering the sale of stolen property as a disorderly persons offense. Annual local expenditures and revenues are likely to increase as disorderly persons offenses are adjudicated in municipal courts and defendants are sentenced to county jails. Generally, a presumption of non-incarceration applies to first time offenders in these cases. Annual municipal revenue would likely increase due to an increase in court filing fees and penalties from these disorderly persons cases.

BILL DESCRIPTION

This bill makes various changes to State law related to retail theft. The bill establishes and upgrades certain crimes related to retail theft, permits certain defendants to be sentenced to extended terms of imprisonment, and permits the establishment a retail theft unit in the Department of Law and Public Safety.

The bill establishes that it is aggravated assault to assault an employee of a store or other retail mercantile establishment. Aggravated assault of an employee of a retail mercantile establishment is a crime of the third degree if the victim suffers bodily injury; otherwise, it is a crime of the fourth degree. A crime of the third degree is punishable by three to five years imprisonment, a fine of up to \$15,000, or both. A crime of the fourth degree is punishable by up to 18 months imprisonment, a fine of up to \$10,000, or both.

The bill establishes a crime of the second degree if any portion of a tax, fee, penalty, or interest, required to be paid or turned over was accrued through conduct as a leader of an organized retail theft enterprise, otherwise it is a crime of the third degree. Relatedly, the bill clarifies that a person is guilty of a crime of the second degree if the taxes the person failed to turn over to the Division of Taxation were collected or withheld as part of an organized retail theft enterprise. A crime of the second degree is punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

The bill provides that a person may be sentenced to an extended term of imprisonment for repeat convictions related to retail theft. A person is a persistent offender if the person has previously been convicted on two or more prior and separate occasions of receiving stolen property, shoplifting, or being a leader of organized retail theft enterprise; or theft that involves the stealing of merchandise, regardless of the dates of the convictions. A persistent offender may be sentenced to an extended term, upon motion of the prosecutor, if the prior conviction was for a crime committed on a separate occasion and the crime for which the person is being sentenced was committed either: (1) within 10 years of the date of the defendant's last release from confinement for the commission of any crime; or (2) within 10 years of the date of the commission of the most recent violation of a crime established in the bill for which the defendant has a prior conviction.

The bill provides that the value of merchandise involved in a violation of the shoplifting statute may be aggregated in determining the grade of the offense where the acts or conduct constituting a violation were committed pursuant to one scheme or course of conduct, whether from the same

person or several persons regardless of the time period over which the scheme or course of conduct took place, or were committed in furtherance of or in conjunction with an organized retail theft enterprise.

The bill updates the fencing statute to clarify that the statute also applies to online sales of stolen goods. The bill also separately establishes the offense of fostering the sale of stolen property, which is a disorderly persons offense. A disorderly persons offense is punishable by up to six months imprisonment, a fine of up to \$1,000, or both.

The bill imposes certain packaging and consumer notice requirements for the sale of gift cards and requires the Division of Consumer Affairs in the Department of Law and Public Safety to create a notice related to gift card fraud for dissemination in locations that sell gift cards.

Finally, the bill requires the Office of the Attorney General to undertake steps as it deems appropriate to promote the effective investigation, prosecution, and deterrence of organized retail theft in this State, which may include establishing a unit, task force, or other appropriate office or initiative to combat organized retail theft.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that establishing and upgrading certain crimes related to retail theft and sentencing certain defendants to extended prison terms may result in an indeterminate annual increase in State and local expenditures and revenues. The OLS lacks sufficient information to quantify the fiscal impact, as it is not possible to estimate the number of crimes likely to be committed under the provisions of this bill or how many persistent offenders will be sentenced to extended prison terms. Generally, a presumption of non-incarceration applies to first time offenders of crimes of the fourth degree and third degree.

The bill requires the Department of Law and Public Safety to undertake appropriate steps for the deterrence of organized retail theft, which may include establishing a unit or task force for the investigation and prosecution of such crimes in the State. The establishment of such a unit would further increase annual State costs.

Among other provisions that could result in incarceration, the bill also provides that a person may be sentenced to an extended term of imprisonment for repeat convictions related to retail theft. As of January 1, 2024, the State prison facilities had a total of 472 individuals incarcerated for property offenses, which include burglary, arson, theft, forgery, embezzlement, and receiving or possessing stolen property. The Department of Corrections does not provide data separated by offense. This number also does not account for the aggravated assault of an employee at a retail mercantile establishment under the provisions of this bill, which may be covered under the “violent offenses” category presented in department’s 2024 Population Characteristics Report. The OLS notes that to the extent the bill results in additional incarcerations, the Department of Corrections would incur those extra costs. Based on information provided by the department, the FY 2023 average annual cost for housing, ensuring security, and providing services to an incarcerated individual was \$75,574, with an average daily cost of \$207.

The OLS finds that expenditures are likely to increase at the local level since disorderly persons offenses are adjudicated in municipal courts and defendants are sentenced to county jails.

According to information provided by the Administrative Office of the Courts, the median daily cost to house an inmate in a county jail is \$228. Annual municipal revenue would also likely increase due to an increase in court filing fees and penalties from these disorderly persons cases.

Section: Judiciary

*Analyst: Anuja Pande Joshi
Senior Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 4755

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED SEPTEMBER 19, 2024

Sponsored by:

Assemblyman JOE DANIELSEN

District 17 (Middlesex and Somerset)

Assemblyman ALEX SAUICKIE

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblywoman HEATHER SIMMONS

District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

Assemblymen McGuckin, Azzariti Jr., Assemblywomen N.Munoz, Drulis,

Assemblymen Spearman, DiMaio, Kanitra, Stanley, Assemblywoman

McCoy, Assemblyman Inganamort, Assemblywoman Haider,

Assemblymen Hutchison, Clifton, Assemblywoman Matsikoudis,

Assemblymen Auth, Karabinchak, Marengo, Peterson, Sampson,

Calabrese, Bailey, Assemblywomen Reynolds-Jackson, Park,

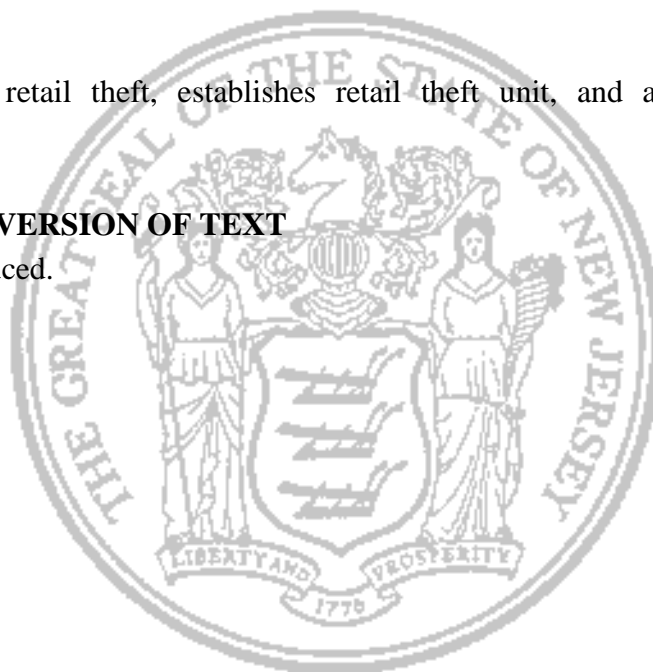
Assemblyman Verrelli, Assemblywomen McCann Stamato and Flynn

SYNOPSIS

Concerns retail theft, establishes retail theft unit, and appropriates \$1 million.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/13/2025)

1 AN ACT concerning retail theft, amending and supplementing
2 various parts of the statutory law, and making an appropriation.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 7 of P.L.1981, c.167 (C.2C:20-7.1) is amended to
8 read as follows:

9 7. Fencing. a. Possession of altered property. Any dealer in
10 property who knew or should have known that the identifying
11 features such as serial numbers and permanently affixed labels of
12 property in his possession have been removed or altered without the
13 consent of the manufacturer is guilty of possession of altered
14 property. It is a defense to a prosecution under this subsection that
15 a person lawfully possesses the usual indicia of ownership in
16 addition to mere possession.

17 b. (1) Dealing in stolen property. A person is guilty of dealing in
18 stolen property if he traffics in, or initiates, organizes, plans,
19 finances, directs, manages or supervises trafficking in stolen
20 property, including through the use of an online platform via any
21 electronic device or through a social media site. This paragraph
22 shall not apply to dealing in stolen property consisting of a
23 domestic companion animal, addressed in paragraph (2) of this
24 subsection.

25 (2) Dealing in stolen domestic companion animals. A person is
26 guilty of dealing in stolen domestic companion animals if he
27 trafficks in, or initiates, organizes, plans, finances, directs, manages
28 or supervises trafficking in stolen property consisting of a domestic
29 companion animal.

30 c. (1) For any violation of this section, other than dealing in
31 stolen domestic companion animals, the value of the property
32 involved in the violation shall be determined by the trier of fact for
33 the purpose of determining the grade of the offense, and the value
34 of the property involved in the violation may be aggregated in
35 determining the grade of the offense where the acts or conduct
36 constituting a violation were committed pursuant to one scheme or
37 course of conduct, whether from the same person or several
38 persons.

39 (2) A violation of this section for dealing in stolen domestic
40 companion animals constitutes a crime of the third degree.

41 d. It is an affirmative defense to a prosecution under this
42 section that the actor:

43 (1) Was unaware that the property or service was that of
44 another;

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (2) Acted under an honest claim of right to the property or
2 service involved or that he had a right to acquire or dispose of it as
3 he did.

4 e. In addition to the presumptions contained in subsection b. of
5 N.J.S.2C:20-7, the following presumptions are available in the
6 prosecution for a fencing offense:

7 (1) Proof of the purchase or sale of property at a price
8 substantially below its fair market value, unless satisfactorily
9 explained, gives rise to an inference that the person buying or
10 selling the property knew that it had been stolen;

11 (2) Proof of the purchase or sale of property by a dealer in that
12 property, out of the regular course of business, or without the usual
13 indicia of ownership other than mere possession, or the property or
14 the job lot of which it is a part was bought, received, possessed or
15 controlled in broken succession of title, so that it cannot be traced,
16 by appropriate documents, in unbroken succession to the
17 manufacturer, in all cases where the regular course of business
18 reasonably indicates records of purchase, transfer or sale, unless
19 satisfactorily explained, gives rise to an inference that the person
20 buying or selling the property knew that it had been stolen; and

21 (3) Proof that a person buying or selling property of the sort
22 received obtained such property without having ascertained by
23 reasonable inquiry that the person from whom he obtained it had a
24 legal right to possess or control it gives rise to an inference that
25 such person knew that it had been stolen.

26 (cf: P.L.2017, c.156, s.1)

27

28 2. (New section) a. A person is guilty of fostering the sale of
29 stolen property, a disorderly persons offense, if the person:

30 (1) hosts, advertises, or otherwise assists in the sale of stolen
31 goods, including through an online platform; and

32 (2) knows or reasonably should know that the property was
33 stolen. The requisite knowledge is presumed in the case of a person
34 who undertook a substantial and unjustifiable risk that the persons
35 actions would result in the sale of stolen property.

36 b. As defined in this act:

37 "Online platform" means any public-facing Internet website,
38 Internet web application, or computer or mobile application,
39 including a social networking website or publication.

40 "Sale" means any sale, transfer, exchange, barter, or offer for
41 sale and distribution, in any manner or by any means whatsoever,
42 including, but not limited to, via an online platform.

43 "Stolen property" shall have the same meaning as defined
44 pursuant to N.J.S.2C:20-1.

45

46 3. N.J.S.2C:12-1 is amended as follows:

47 2C:12-1. Assault. a. Simple assault. A person is guilty of
48 assault if the person:

- 1 (1) Attempts to cause or purposely, knowingly or recklessly
2 causes bodily injury to another; or
- 3 (2) Negligently causes bodily injury to another with a deadly
4 weapon; or
- 5 (3) Attempts by physical menace to put another in fear of
6 imminent serious bodily injury.
- 7 Simple assault is a disorderly persons offense unless committed
8 in a fight or scuffle entered into by mutual consent, in which case it
9 is a petty disorderly persons offense.
- 10 b. Aggravated assault. A person is guilty of aggravated assault
11 if the person:
- 12 (1) Attempts to cause serious bodily injury to another, or causes
13 injury purposely or knowingly or under circumstances manifesting
14 extreme indifference to the value of human life recklessly causes
15 such injury; or
- 16 (2) Attempts to cause or purposely or knowingly causes bodily
17 injury to another with a deadly weapon; or
- 18 (3) Recklessly causes bodily injury to another with a deadly
19 weapon; or
- 20 (4) Knowingly under circumstances manifesting extreme
21 indifference to the value of human life points a firearm, as defined
22 in subsection f. of N.J.S.2C:39-1, at or in the direction of another,
23 whether or not the actor believes it to be loaded; or
- 24 (5) Commits a simple assault as defined in paragraph (1), (2), or
25 (3) of subsection a. of this section upon:
- 26 (a) Any law enforcement officer acting in the performance of
27 the officer's duties while in uniform or exhibiting evidence of
28 authority or because of the officer's status as a law enforcement
29 officer; or
- 30 (b) Any paid or volunteer firefighter acting in the performance
31 of the firefighter's duties while in uniform or otherwise clearly
32 identifiable as being engaged in the performance of the duties of a
33 firefighter; or
- 34 (c) Any person engaged in emergency first-aid or medical
35 services acting in the performance of the person's duties while in
36 uniform or otherwise clearly identifiable as being engaged in the
37 performance of emergency first-aid or medical services; or
- 38 (d) Any school board member, school administrator, teacher,
39 school bus driver, or other employee of a public or nonpublic
40 school or school board while clearly identifiable as being engaged
41 in the performance of the person's duties or because of the person's
42 status as a member or employee of a public or nonpublic school or
43 school board or any school bus driver employed by an operator
44 under contract to a public or nonpublic school or school board while
45 clearly identifiable as being engaged in the performance of the
46 person's duties or because of the person's status as a school bus
47 driver; or

- 1 (e) Any employee of the Division of Child Protection and
2 Permanency while clearly identifiable as being engaged in the
3 performance of the employee's duties or because of the status as an
4 employee of the division; or
- 5 (f) Any justice of the Supreme Court, judge of the Superior
6 Court, judge of the Tax Court or municipal judge while clearly
7 identifiable as being engaged in the performance of judicial duties
8 or because of the status as a member of the judiciary; or
- 9 (g) Any operator of a motorbus or the operator's supervisor or
10 any employee of a rail passenger service while clearly identifiable
11 as being engaged in the performance of the person's duties or
12 because of the status as an operator of a motorbus or as the
13 operator's supervisor or as an employee of a rail passenger service;
14 or
- 15 (h) Any Department of Corrections employee, county
16 correctional police officer, juvenile correctional police officer, State
17 juvenile facility employee, juvenile detention staff member,
18 juvenile detention officer, probation officer or any sheriff,
19 undersheriff, or sheriff's officer acting in the performance of the
20 person's duties while in uniform or exhibiting evidence of the
21 person's authority or because of the status as a Department of
22 Corrections employee, county correctional police officer, juvenile
23 correctional police officer, State juvenile facility employee, juvenile
24 detention staff member, juvenile detention officer, probation
25 officer, sheriff, undersheriff, or sheriff's officer; or
- 26 (i) Any employee, including any person employed under
27 contract, of a utility company as defined in section 2 of P.L.1971,
28 c.224 (C.2A:42-86) or a cable television company subject to the
29 provisions of the "Cable Television Act," P.L.1972, c.186
30 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in
31 the performance of the employee's duties in regard to connecting,
32 disconnecting, or repairing or attempting to connect, disconnect, or
33 repair any gas, electric, or water utility, or cable television or
34 telecommunication service; or
- 35 (j) Any health care worker employed by a licensed health care
36 facility to provide direct patient care, any health care professional
37 licensed or otherwise authorized pursuant to Title 26 or Title 45 of
38 the Revised Statutes to practice a health care profession, except a
39 direct care worker at a State or county psychiatric hospital or State
40 developmental center or veterans' memorial home, while clearly
41 identifiable as being engaged in the duties of providing direct
42 patient care or practicing the health care profession; or
- 43 (k) Any direct care worker at a State or county psychiatric
44 hospital or State developmental center or veterans' memorial home,
45 while clearly identifiable as being engaged in the duties of
46 providing direct patient care or practicing the health care
47 profession, provided that the actor is not a patient or resident at the

1 facility who is classified by the facility as having a mental illness or
2 developmental disability; or

3 (l) Any employee of a retail mercantile establishment.
4 “Employee of a retail mercantile establishment” means any person,
5 while clearly identifiable as being engaged in the performance of
6 the person’s duties, engaged in the sale, display, or offering for sale
7 of consumer commodities and who is employed by any place of
8 business where merchandise is displayed, held, stored, or sold or
9 offered at retail to members of consuming public; or

10 (6) Causes bodily injury to another person while fleeing or
11 attempting to elude a law enforcement officer in violation of
12 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
13 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any
14 other provision of law to the contrary, a person shall be strictly
15 liable for a violation of this paragraph upon proof of a violation of
16 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
17 violation of subsection c. of N.J.S.2C:20-10 which resulted in
18 bodily injury to another person; or

19 (7) Attempts to cause significant bodily injury to another or
20 causes significant bodily injury purposely or knowingly or, under
21 circumstances manifesting extreme indifference to the value of
22 human life recklessly causes such significant bodily injury; or

23 (8) Causes bodily injury by knowingly or purposely starting a
24 fire or causing an explosion in violation of N.J.S.2C:17-1 which
25 results in bodily injury to any emergency services personnel
26 involved in fire suppression activities, rendering emergency
27 medical services resulting from the fire or explosion or rescue
28 operations, or rendering any necessary assistance at the scene of the
29 fire or explosion, including any bodily injury sustained while
30 responding to the scene of a reported fire or explosion. For
31 purposes of this paragraph, "emergency services personnel" shall
32 include, but not be limited to, any paid or volunteer firefighter, any
33 person engaged in emergency first-aid or medical services and any
34 law enforcement officer. Notwithstanding any other provision of
35 law to the contrary, a person shall be strictly liable for a violation of
36 this paragraph upon proof of a violation of N.J.S.2C:17-1 which
37 resulted in bodily injury to any emergency services personnel; or

38 (9) Knowingly, under circumstances manifesting extreme
39 indifference to the value of human life, points or displays a firearm,
40 as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of
41 a law enforcement officer; or

42 (10) Knowingly points, displays or uses an imitation firearm, as
43 defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a
44 law enforcement officer with the purpose to intimidate, threaten, or
45 attempt to put the officer in fear of bodily injury or for any unlawful
46 purpose; or

47 (11) Uses or activates a laser sighting system or device, or a
48 system or device which, in the manner used, would cause a

1 reasonable person to believe that it is a laser sighting system or
2 device, against a law enforcement officer acting in the performance
3 of the officer's duties while in uniform or exhibiting evidence of the
4 officer's authority. As used in this paragraph, "laser sighting system
5 or device" means any system or device that is integrated with or
6 affixed to a firearm and emits a laser light beam that is used to
7 assist in the sight alignment or aiming of the firearm; or

8 (12) Attempts to cause significant bodily injury or causes
9 significant bodily injury purposely or knowingly or, under
10 circumstances manifesting extreme indifference to the value of
11 human life, recklessly causes significant bodily injury to a person
12 who, with respect to the actor, meets the definition of a victim of
13 domestic violence, as defined in subsection d. of section 3 of
14 P.L.1991, c.261 (C.2C:25-19); or

15 (13) Knowingly or, under circumstances manifesting extreme
16 indifference to the value of human life, recklessly obstructs the
17 breathing or blood circulation of a person who, with respect to the
18 actor, meets the definition of a victim of domestic violence, as
19 defined in subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-
20 19), by applying pressure on the throat or neck or blocking the nose
21 or mouth of such person, thereby causing or attempting to cause
22 bodily injury.

23 Aggravated assault under paragraphs (1) and (6) of subsection b.
24 of this section is a crime of the second degree; under paragraphs
25 (2), (7), (9), and (10) of subsection b. of this section is a crime of
26 the third degree; under paragraphs (3) and (4) of subsection b. of
27 this section is a crime of the fourth degree; and under paragraph (5)
28 of subsection b. of this section is a crime of the third degree if the
29 victim suffers bodily injury, otherwise it is a crime of the fourth
30 degree, except that any aggravated assault under subparagraph (g)
31 of paragraph (5) of subsection b. of this section shall be a crime of
32 the third degree. Aggravated assault under paragraph (8) of
33 subsection b. of this section is a crime of the third degree if the
34 victim suffers bodily injury; if the victim suffers significant bodily
35 injury or serious bodily injury it is a crime of the second degree.
36 Aggravated assault under paragraph (11) of subsection b. of this
37 section is a crime of the third degree. Aggravated assault under
38 paragraph (12) of subsection b. of this section is a crime of the third
39 degree but the presumption of non-imprisonment set forth in
40 subsection e. of N.J.S.2C:44-1 for a first offense of a crime of the
41 third degree shall not apply. Aggravated assault under paragraph
42 (13) of subsection b. of this section is a crime of the second degree.

43 c. (1) A person is guilty of assault by auto or vessel when the
44 person drives a vehicle or vessel recklessly and causes either
45 serious bodily injury or bodily injury to another. Assault by auto or
46 vessel is a crime of the fourth degree if serious bodily injury results
47 and is a disorderly persons offense if bodily injury results. Proof
48 that the defendant was operating a hand-held wireless telephone

1 while driving a motor vehicle in violation of section 1 of P.L.2003,
2 c.310 (C.39:4-97.3) may give rise to an inference that the defendant
3 was driving recklessly.

4 (2) Assault by auto or vessel is a crime of the third degree if the
5 person drives the vehicle while in violation of R.S.39:4-50 or
6 section 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily
7 injury results and is a crime of the fourth degree if the person drives
8 the vehicle while in violation of R.S.39:4-50 or section 2 of
9 P.L.1981, c.512 (C.39:4-50.4a) and bodily injury results.

10 (3) Assault by auto or vessel is a crime of the second degree if
11 serious bodily injury results from the defendant operating the auto
12 or vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981,
13 c.512 (C.39:4-50.4a) while:

14 (a) on any school property used for school purposes which is
15 owned by or leased to any elementary or secondary school or school
16 board, or within 1,000 feet of such school property;

17 (b) driving through a school crossing as defined in R.S.39:1-1 if
18 the municipality, by ordinance or resolution, has designated the
19 school crossing as such; or

20 (c) driving through a school crossing as defined in R.S.39:1-1
21 knowing that juveniles are present if the municipality has not
22 designated the school crossing as such by ordinance or resolution.

23 Assault by auto or vessel is a crime of the third degree if bodily
24 injury results from the defendant operating the auto or vessel in
25 violation of this paragraph.

26 A map or true copy of a map depicting the location and
27 boundaries of the area on or within 1,000 feet of any property used
28 for school purposes which is owned by or leased to any elementary
29 or secondary school or school board produced pursuant to section 1
30 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under
31 subparagraph (a) of paragraph (3) of this subsection.

32 It shall be no defense to a prosecution for a violation of
33 subparagraph (a) or (b) of paragraph (3) of this subsection that the
34 defendant was unaware that the prohibited conduct took place while
35 on or within 1,000 feet of any school property or while driving
36 through a school crossing. Nor shall it be a defense to a prosecution
37 under subparagraph (a) or (b) of paragraph (3) of this subsection
38 that no juveniles were present on the school property or crossing
39 zone at the time of the offense or that the school was not in session.

40 (4) Assault by auto or vessel is a crime of the third degree if the
41 person purposely drives a vehicle in an aggressive manner directed
42 at another vehicle and serious bodily injury results and is a crime of
43 the fourth degree if the person purposely drives a vehicle in an
44 aggressive manner directed at another vehicle and bodily injury
45 results. For purposes of this paragraph, "driving a vehicle in an
46 aggressive manner" shall include, but is not limited to,
47 unexpectedly altering the speed of the vehicle, making improper or
48 erratic traffic lane changes, disregarding traffic control devices,

1 failing to yield the right of way, or following another vehicle too
2 closely.

3 As used in this subsection, "vessel" means a means of
4 conveyance for travel on water and propelled otherwise than by
5 muscular power.

6 d. A person who is employed by a facility as defined in section
7 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as
8 defined in paragraph (1) or (2) of subsection a. of this section upon
9 an institutionalized elderly person as defined in section 2 of
10 P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth
11 degree.

12 e. (Deleted by amendment, P.L.2001, c.443).

13 f. A person who commits a simple assault as defined in
14 paragraph (1), (2), or (3) of subsection a. of this section in the
15 presence of a child under 16 years of age at a school or community
16 sponsored youth sports event is guilty of a crime of the fourth
17 degree. The defendant shall be strictly liable upon proof that the
18 offense occurred, in fact, in the presence of a child under 16 years
19 of age. It shall not be a defense that the defendant did not know
20 that the child was present or reasonably believed that the child was
21 16 years of age or older. The provisions of this subsection shall not
22 be construed to create any liability on the part of a participant in a
23 youth sports event or to abrogate any immunity or defense available
24 to a participant in a youth sports event. As used in this act, "school
25 or community sponsored youth sports event" means a competition,
26 practice, or instructional event involving one or more
27 interscholastic sports teams or youth sports teams organized
28 pursuant to a nonprofit or similar charter or which are member
29 teams in a youth league organized by or affiliated with a county or
30 municipal recreation department and shall not include collegiate,
31 semi-professional or professional sporting events.

32 (cf: P.L.2021, c.352, s.1)

33

34 4. N.J.S.2C:20-11 is amended to read as follows:

35 a. Definitions. The following definitions apply to this section:

36 (1) "Shopping cart" means those push carts of the type or types
37 which are commonly provided by grocery stores, drug stores or
38 other retail mercantile establishments for the use of the public in
39 transporting commodities in stores and markets and, incidentally,
40 from the stores to a place outside the store;

41 (2) "Store or other retail mercantile establishment" means a
42 place where merchandise is displayed, held, stored or sold or
43 offered to the public for sale;

44 (3) "Merchandise" means any goods, chattels, foodstuffs or
45 wares of any type and description, regardless of the value thereof;

46 (4) "Merchant" means any owner or operator of any store or
47 other retail mercantile establishment, or any agent, servant,

1 employee, lessee, consignee, officer, director, franchisee or
2 independent contractor of such owner or proprietor;

3 (5) "Person" means any individual or individuals, including an
4 agent, servant or employee of a merchant where the facts of the
5 situation so require;

6 (6) "Conceal" means to conceal merchandise so that, although
7 there may be some notice of its presence, it is not visible through
8 ordinary observation;

9 (7) "Full retail value" means the merchant's stated or advertised
10 price of the merchandise;

11 (8) "Premises of a store or retail mercantile establishment"
12 means and includes but is not limited to, the retail mercantile
13 establishment; any common use areas in shopping centers and all
14 parking areas set aside by a merchant or on behalf of a merchant for
15 the parking of vehicles for the convenience of the patrons of such
16 retail mercantile establishment;

17 (9) "Under-ring" means to cause the cash register or other sale
18 recording device to reflect less than the full retail value of the
19 merchandise;

20 (10) "Antishoplifting or inventory control device
21 countermeasure" means any item or device which is designed,
22 manufactured, modified, or altered to defeat any antishoplifting or
23 inventory control device;

24 (11) "Organized retail theft enterprise" means any association of
25 two or more persons who engage in the conduct of or are associated
26 for the purpose of effectuating the transfer or sale of shoplifted
27 merchandise.

28 b. Shoplifting. Shoplifting shall consist of any one or more of
29 the following acts:

30 (1) For any person purposely to take possession of, carry away,
31 transfer or cause to be carried away or transferred, any merchandise
32 displayed, held, stored or offered for sale by any store or other retail
33 mercantile establishment with the intention of depriving the
34 merchant of the possession, use or benefit of such merchandise or
35 converting the same to the use of such person without paying to the
36 merchant the full retail value thereof.

37 (2) For any person purposely to conceal upon his person or
38 otherwise any merchandise offered for sale by any store or other
39 retail mercantile establishment with the intention of depriving the
40 merchant of the processes, use or benefit of such merchandise or
41 converting the same to the use of such person without paying to the
42 merchant the value thereof.

43 (3) For any person purposely to alter, transfer or remove any
44 label, price tag or marking indicia of value or any other markings
45 which aid in determining value affixed to any merchandise
46 displayed, held, stored or offered for sale by any store or other retail
47 mercantile establishment and to attempt to purchase such
48 merchandise personally or in consort with another at less than the

1 full retail value with the intention of depriving the merchant of all
2 or some part of the value thereof.

3 (4) For any person purposely to transfer any merchandise
4 displayed, held, stored or offered for sale by any store or other retail
5 merchandise establishment from the container in or on which the
6 same shall be displayed to any other container with intent to deprive
7 the merchant of all or some part of the retail value thereof.

8 (5) For any person purposely to under-ring with the intention of
9 depriving the merchant of the full retail value thereof.

10 (6) For any person purposely to remove a shopping cart from the
11 premises of a store or other retail mercantile establishment without
12 the consent of the merchant given at the time of such removal with
13 the intention of permanently depriving the merchant of the
14 possession, use or benefit of such cart.

15 c. Gradation. (1) Shoplifting constitutes a crime of the second
16 degree under subsection b. of this section if the full retail value of
17 the merchandise is \$75,000 or more, or the offense is committed in
18 furtherance of or in conjunction with an organized retail theft
19 enterprise and the full retail value of the merchandise is \$1,000 or
20 more.

21 (2) Shoplifting constitutes a crime of the third degree under
22 subsection b. of this section if the full retail value of the
23 merchandise exceeds \$500 but is less than \$75,000, or the offense
24 is committed in furtherance of or in conjunction with an organized
25 retail theft enterprise and the full retail value of the merchandise is
26 less than \$1,000.

27 (3) Shoplifting constitutes a crime of the fourth degree under
28 subsection b. of this section if the full retail value of the
29 merchandise is at least \$200 but does not exceed \$500.

30 (4) Shoplifting is a disorderly persons offense under subsection
31 b. of this section if the full retail value of the merchandise is less
32 than \$200.

33 The total value of the merchandise involved in a violation or
34 multiple violations of this section may be aggregated within the
35 previous one-year period in determining the grade of the offense
36 where the acts or conduct constituting a violation were committed
37 pursuant to one scheme or course of conduct, whether from the
38 same person or several persons, or were committed in furtherance
39 of or in conjunction with an organized retail theft enterprise.

40 Additionally, notwithstanding the term of imprisonment provided
41 in N.J.S.2C:43-6 or 2C:43-8, any person convicted of a shoplifting
42 offense shall be sentenced to perform community service as
43 follows: for a first offense, at least ten days of community service;
44 for a second offense, at least 15 days of community service; and for
45 a third or subsequent offense, a maximum of 25 days of community
46 service and any person convicted of a third or subsequent
47 shoplifting offense shall serve a minimum term of imprisonment of
48 not less than 90 days.

1 d. Presumptions. Any person purposely concealing
2 unpurchased merchandise of any store or other retail mercantile
3 establishment, either on the premises or outside the premises of
4 such store or other retail mercantile establishment, shall be prima
5 facie presumed to have so concealed such merchandise with the
6 intention of depriving the merchant of the possession, use or benefit
7 of such merchandise without paying the full retail value thereof,
8 and the finding of such merchandise concealed upon the person or
9 among the belongings of such person shall be prima facie evidence
10 of purposeful concealment; and if such person conceals, or causes
11 to be concealed, such merchandise upon the person or among the
12 belongings of another, the finding of the same shall also be prima
13 facie evidence of willful concealment on the part of the person so
14 concealing such merchandise.

15 e. A law enforcement officer, or a special officer, or a
16 merchant, who has probable cause for believing that a person has
17 willfully concealed unpurchased merchandise and that he can
18 recover the merchandise by taking the person into custody, may, for
19 the purpose of attempting to effect recovery thereof, take the person
20 into custody and detain him in a reasonable manner for not more
21 than a reasonable time, and the taking into custody by a law
22 enforcement officer or special officer or merchant shall not render
23 such person criminally or civilly liable in any manner or to any
24 extent whatsoever.

25 Any law enforcement officer may arrest without warrant any
26 person he has probable cause for believing has committed the
27 offense of shoplifting as defined in this section.

28 A merchant who causes the arrest of a person for shoplifting, as
29 provided for in this section, shall not be criminally or civilly liable
30 in any manner or to any extent whatsoever where the merchant has
31 probable cause for believing that the person arrested committed the
32 offense of shoplifting.

33 f. Any person who possesses or uses any antishoplifting or
34 inventory control device countermeasure within any store or other
35 retail mercantile establishment is guilty of a disorderly persons
36 offense.

37 (cf: P.L.2006, c.56, s.1)

38

39 5. Section 2 of P.L.2006, c.56 (C.2C:20-11.2) is amended to
40 read as follows:

41 2. A person is a leader of an organized retail theft enterprise if
42 he conspires with others as an organizer, supervisor, financier or
43 manager, to engage for profit in a scheme or course of conduct to
44 effectuate the transfer or sale of shoplifted merchandise. Leader of
45 organized retail theft enterprise is a crime of the **second** first
46 degree. Notwithstanding the provisions of subsection a. of
47 N.J.S.2C:43-3, the court may impose a fine not to exceed \$250,000

1 or five times the retail value of the merchandise seized at the time
2 of the arrest, whichever is greater.

3 Notwithstanding the provisions of N.J.S.2C:1-8, a conviction of
4 leader of organized retail theft enterprise shall not merge with the
5 conviction for any offense which is the object of the conspiracy.
6 Nothing contained in this section shall prohibit the court from
7 imposing an extended term pursuant to N.J.S.2C:43-7; nor shall this
8 section be construed in any way to preclude or limit the prosecution
9 or conviction of any person for conspiracy under N.J.S.2C:5-2, or
10 any prosecution or conviction for any other offense.

11 It shall not be necessary in any prosecution under this section for
12 the State to prove that any intended profit was actually realized. The
13 trier of fact may infer that a particular scheme or course of conduct
14 was undertaken for profit from all of the attending circumstances,
15 including but not limited to the number of persons involved in the
16 scheme or course of conduct, the actor's net worth and his
17 expenditures in relation to his legitimate sources of income, the
18 amount of merchandise involved, or the amount of cash or currency
19 involved.

20 It shall not be a defense to a prosecution under this section that
21 any shoplifted merchandise was brought into or transported in this
22 State solely for ultimate distribution in another jurisdiction; nor
23 shall it be a defense that any profit was intended to be made in
24 another jurisdiction.

25 (cf: P.L.2006, c.56, s.2)

26

27 6. (New section) a. Upon request of the prosecutor, a person
28 who has been convicted of shoplifting pursuant to N.J.S.2C:20-11,
29 receiving stolen property pursuant to N.J.S.2C:20-7, leader of
30 organized retail theft enterprise pursuant to section 2 of P.L.2006,
31 c.56 (C.2C:20-11.2); or theft as defined in chapter 20 of Title 2C of
32 the New Jersey Statutes that involves the stealing of merchandise
33 from a retail mercantile establishment shall be sentenced to an
34 extended term of imprisonment pursuant to N.J.S.2C:43-7 if the
35 person has previously been convicted on two or more prior and
36 separate occasions, regardless of the dates of the convictions, in
37 accordance with the provisions of subsection b. of this section, for a
38 violation of paragraphs (1) or (2) of subsection c. of N.J.S.2C:20-
39 11, N.J.S.2C:20-7, section 2 of P.L.2006, c.56 (C.2C:20-11.2), or
40 theft as defined in chapter 20 of Title 2C of the New Jersey Statutes
41 involving the stealing of merchandise, or a crime under any statute
42 of the United States, this State, or any other state for a crime that is
43 substantially equivalent to a violation of shoplifting, leader of
44 organized retail theft enterprise, or theft involving merchandise.

45 b. The provisions of this section shall not apply unless the prior
46 convictions are for crimes committed on separate occasions and the
47 crime for which the defendant is being sentenced was committed
48 either:

1 (1) within 10 years of the date of the defendant's last release
2 from confinement for the commission of any crime; or

3 (2) within 10 years of the date of the commission of the most
4 recent of the crimes enumerated in subsection a. of this section for
5 which the defendant has a prior conviction.

6 c. Prior convictions shall be defined and proven in accordance
7 with N.J.S.2C:44-4.

8 d. The court shall not impose a sentence of imprisonment
9 pursuant to this section unless the ground therefor has been
10 established at a hearing after the conviction of the defendant and on
11 written notice to the defendant of the ground proposed. The
12 defendant shall have the right to hear and controvert the evidence
13 against him and to offer evidence upon the issue.

14

15 7. (New section) a. The Attorney General shall, in consultation
16 with the Director of the Division of Criminal Justice, establish a
17 retail theft unit or other appropriate office in the Department of Law
18 and Public Safety to combat organized retail theft in this State. The
19 Attorney General shall investigate, coordinate, and supply resources
20 to prosecute organized retail theft.

21 b. (1). In a manner prescribed by the Attorney General, a
22 county prosecutor, law enforcement officer, special officer, or retail
23 merchant may notify the Division of Criminal Justice of allegations
24 that a crime of retail theft was committed.

25 (2) In a manner prescribed by the Attorney General, a county
26 prosecutor shall notify the Division of Criminal Justice that a crime
27 of retail theft was allegedly committed by a defendant if:

28 (a) there is probable cause that the defendant has committed two
29 or more acts of retail theft in the State;

30 (b) there is probable cause that the defendant has committed one
31 or more acts of retail theft in this State and one or more acts of
32 retail theft in another state; or

33 (c) the defendant has previously been convicted of retail theft in
34 this State or another state.

35 c. The Division of Criminal Justice shall have the authority to:

36 (1) investigate and, if warranted, prosecute cases concerning
37 acts of retail theft; and

38 (2) assist county prosecutors in the investigation and prosecution
39 of acts of retail theft.

40 d. As used in this section, "retail theft" shall include the crimes
41 of shoplifting pursuant to N.J.S.2C:20-11; leader of organized retail
42 theft enterprise pursuant to section 2 of P.L.2006, c.56 (C.2C:20-
43 11.2); or theft as defined in chapter 20 of Title 2C of the New
44 Jersey Statutes that involves the stealing of merchandise.

45

46 8. Section 19 of P.L.1987, c.76 (C.54:52-9) is amended to read
47 as follows:

1 19. a. A person is guilty of a crime of the third degree if he
2 fails to pay or turn over when due any tax, fee, penalty or interest or
3 any part thereof required to be paid pursuant to the provisions of the
4 State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., as amended
5 and supplemented, or any State tax law, with the intent to evade,
6 avoid or otherwise not make timely payment or deposit of any tax,
7 fee, penalty or interest or any part thereof. The crime shall be of
8 the second degree if a person fails to pay or turn over when due any
9 tax, fee, penalty or interest or any part thereof required to be paid in
10 connection with the person being a leader of an organized retail
11 theft enterprise in violation section 2 of P.L.2006, c.56 (C.2C:20-
12 11.2).

13 b. The fact that any payment was made with a subsequently
14 dishonored negotiable instrument shall constitute prima facie
15 evidence that the actor failed to pay within the meaning of
16 subsection a. of this section, and the trier of fact may draw a
17 permissive inference therefrom that the actor did not intend to make
18 the payment.

19 (cf: P.L.1987, c.76, s.19)

20

21 9. Section 25 of P.L.1987, c.76 (C.54:52-15) is amended to
22 read as follows:

23 25. A person is guilty of a crime of the third degree if he, after
24 having collected or withheld taxes as required by any State tax law,
25 whether or not he is authorized, licensed, or registered to collect or
26 withhold taxes, purposely fails to turn over the taxes to the Director
27 of the Division of Taxation in the manner and at the time prescribed
28 by law. The crime shall be of the second degree if the amount of
29 the tax collected or withheld is \$75,000.00 or more, or if the person
30 is a leader of an organized retail theft enterprise in violation of
31 section 2 of P.L.2006, c.56 (C.2C:20-11.2).

32 (cf: P.L.1987, c.76, s.25)

33

34 10. Section 1 of P.L.2021, c.431 (C.56:8-110.1) is amended to
35 read as follows:

36 1. a. Every retail mercantile establishment in this State that
37 displays open-loop gift cards or closed-loop gift cards for sale shall
38 train employees on how to identify and respond to open- loop gift
39 card or closed-loop gift card fraud. A retail mercantile
40 establishment shall conduct the training in accordance with
41 guidelines issued pursuant to section 2 of **[this act]** P.L.2021, c.431
42 (C.56:8-110.2).

43 b. A retail mercantile establishment that violates the provisions
44 of this section or section 11 of P.L. , c. (C.) (pending
45 before the Legislature as this bill) shall be subject to a civil penalty
46 of \$1,000, which may be collected and enforced by the Director of
47 the Division of Consumer Affairs in the Department of Law and
48 Public Safety in a summary proceeding pursuant to the "Penalty

1 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).
2 The Superior Court shall have jurisdiction of proceedings for the
3 enforcement of the penalty provided by this section.

4 A violation of this section shall not be considered an unlawful
5 practice in violation of P.L.1960, c.39 (C.56:8-1 et seq.).

6 c. As used in this **【section】** P.L.2021, c.431, and section 11 of
7 P.L. , c. (C.) (pending before the Legislature as this bill):

8 “Closed-loop gift card” means a gift card, code or device that is:

9 (1) issued to a consumer on a prepaid basis primarily for
10 personal, family, or household purposes in a specified amount,
11 regardless of whether that amount may be increased or reloaded in
12 exchange for payment; and

13 (2) redeemable on presentation by a consumer at a single retail
14 mercantile establishment or a group of affiliated retail mercantile
15 establishments.

16 **【**"Gift card" means a tangible device, whereon is embedded or
17 encoded in an electronic or other format a value issued in exchange
18 for payment, which promises to provide to the bearer merchandise
19 of equal value to the remaining balance of the device.**】**

20 "Merchandise" means any objects, wares, goods, commodities,
21 services, or anything offered, directly or indirectly, to the public for
22 sale.

23 “Open-Loop Gift Card” means a card, code, or device that is:

24 (1) issued to a consumer on a prepaid basis primarily for
25 personal, family, or household purposes in a specified amount,
26 regardless of whether that amount may be increased or reloaded in
27 exchange for payment;

28 (2) payment card network branded; and

29 (3) redeemable on presentation at multiple unaffiliated merchants
30 for goods or services within the payment card network or usable at
31 an automated teller machine.

32 "Retail mercantile establishment" means any place of business
33 where merchandise is exposed or offered for sale at retail to
34 members of the consuming public.

35 “Third-Party Gift Card Reseller” means a merchant who, without
36 authorization from or affiliation with the business entity issuing an
37 open- or closed-loop gift card, is engaged in the business of:

38 (1) buying open- or closed-loop gift cards on behalf of
39 consumers; or

40 (2) reselling open- or closed-loop gift cards to consumers.

41 (cf: P.L.2021, c.431, s.1)

42

43 11. (New section) a. The Director of the Division of Consumer
44 Affairs in the Department of Law and Public Safety shall create and
45 provide a notice to retail mercantile establishments which shall
46 include, but not be limited to:

47 (1) the risk of gift card scams; and

1 (2) available assistance, including from the Division of
2 Consumer Affairs, a consumer may seek if the consumer suspects
3 they may be a victim of a gift card scam.

4 b. (1) Except as provided in subsection e. of this section, a
5 retail mercantile establishment may not knowingly sell an open-
6 loop gift card or closed-loop gift card to a consumer unless the
7 retail mercantile establishment conspicuously displays a notice in a
8 form as prescribed by the Director of the Division of Consumer
9 Affairs in accordance with subsection a. of this section.

10 (2) For in-person sales, the notice shall be placed at or near the
11 physical location where the open-loop gift card is displayed for sale
12 or where the sale of the open-loop gift card is sold.

13 (3) For online sales of open-loop gift cards, the notice shall be
14 displayed on the webpage where the gift card is offered for sale or
15 before the sale is finalized.

16 c. For the sale of an open-loop gift card pursuant to paragraph
17 (2) of subsection b., the gift card shall be enclosed in packaging
18 that:

19 (1) is sealed in a manner that is not easily opened without signs
20 of tampering;

21 (2) except as provided in paragraph (3) of this subsection,
22 conceals all numeric codes specific to the activation or the
23 redemption of the gift card, including any bar code, CVV number,
24 pin number, or activation code;

25 (3) displays an activation code, bar code, or other activation data
26 only if the packaging used is more secure than it otherwise would
27 be if the data were fully concealed; and

28 (4) includes a warning that states the following or uses language
29 substantially similar to the following: "Do not sell or purchase if
30 packaging has been broken or indicates tampering."

31 d. For the sale of a closed-loop gift card, the gift card shall be
32 enclosed in packaging that:

33 (1) conceals or covers, in a manner that is not easily removed or
34 replaced without signs of tampering, all numeric codes specific to
35 the redemption of the gift card; or

36 (2) if made more secure through partial concealment or covering
37 than full concealment or covering pursuant to paragraph (1) of this
38 subsection, partially conceals or covers, in a manner that is not
39 easily removed or replaced without signs of tampering, all numeric
40 codes specific to redemption of the gift card; and

41 (3) includes a warning that states the following or uses language
42 substantially similar to the following: "Do not sell or purchase if
43 packaging has been broken or indicates tampering."

44 e. A retail mercantile establishment may sell an open- or closed
45 loop gift card that is not enclosed in secured packaging pursuant to
46 subsection c. or d. of this section if:

- 1 (1) the gift card is a chip-enabled, numberless card that is
2 activated by a consumer after registering the card on the card
3 issuer's website; or
- 4 (2) the gift card is:
- 5 (a) sold exclusively by a retail mercantile establishment for use
6 only at the retail mercantile establishment or a group of affiliated
7 retail mercantile establishments for use at the retail mercantile
8 establishments of the affiliated establishments; and
- 9 (b) is secured in a physical location within the retail mercantile
10 establishment that is accessible only by an employee.
- 11 f. (1) When a third-party gift card reseller buys or sells an
12 open-loop gift card as part of a transaction occurring in this State,
13 the reseller shall record and, for at least three years, maintain a copy
14 of the following information as applicable:
- 15 (a) the date of the transaction;
- 16 (b) the name of the person who conducted the transaction;
- 17 (c) the name, age, and address of the seller of the gift card;
- 18 (d) the seller's and consumer's driver's license number or
19 identification card number;
- 20 (e) a description of the purchased gift card, including, but not
21 limited to, the retailer for which the gift card is intended for use and
22 the gift card number;
- 23 (f) the specific amount issued on the gift card;
- 24 (g) the transaction price;
- 25 (h) the signature of the consumer.
- 26 (2) The information recorded and maintained pursuant to this
27 section shall be chronologically written in ink or logged into a
28 secure database, software system, or other similar technology
29 platform.
- 30 (3) Except as provided in paragraph (4) of this subsection,
31 recorded information may not be destroyed, altered, or erased.
- 32 (4) A handwritten correction may be made to an entry of
33 information by drawing a line of ink through the entry in a manner
34 that retains legibility.
- 35 (5) Information recorded pursuant to this subsection shall be
36 open to inspection by any duly authorized law enforcement officer
37 in this State during the ordinary business hours of the third-party
38 gift card reseller or at other reasonable time.
- 39 g. A third-party gift card reseller, including an agent or
40 employee of the third-party gift card reseller may not:
- 41 (1) fail to make an entry of or falsify, destroy, or remove any
42 information required to be recorded and maintained pursuant to this
43 section;
- 44 (2) refuse to allow any duly authorized law enforcement officer
45 in this State to inspect a record of information or open- or closed-
46 loop gift cards in the reseller's possession; or
- 47 (3) fail to maintain a record in pursuant to this section.

1 h. Upon the filing of an official report to a law enforcement
2 agency by any person alleging to be a victim of theft of one or more
3 open- or closed-loop gift cards with an aggregate value exceed
4 \$500, law enforcement may request that the issuer of the gift cards
5 or the issuer's agents preserve and provide law enforcement all
6 relevant evidence.

7
8 12. There is appropriated from the General Fund to the
9 Department of Law and Public Safety the sum of \$1,000,000 to
10 effectuate the provisions of this act.

11
12 13. This act shall take effect immediately, except that sections 7,
13 10, and 11 shall take effect on the 180th day after the date of
14 enactment.

15
16
17 STATEMENT

18
19 This bill makes various changes to State law related to retail
20 theft. The bill upgrades certain crimes related to retail theft,
21 permits certain defendants to be sentenced to extended terms of
22 imprisonment, and establishes a retail theft unit in the Department
23 of Law and Public Safety (DLPS).

24
25 ASSAULT

26 The bill establishes that it is aggravated assault to assault an
27 "employee of a retail mercantile establishment." This is defined as
28 any person engaged in the sale, display, or offering for sale of
29 consumer commodities and who is employed by any place of
30 business where merchandise is displayed, held, stored, or sold or
31 offered at retail to members of consuming public.

32 Aggravated assault is a crime of a employee of a retail
33 mercantile establishment is a crime of the third degree if the victim
34 suffers bodily injury, otherwise it is a crime of the fourth degree. A
35 third degree crime is punishable by three to five years
36 imprisonment, a fine of up to \$15,000, or both. A fourth degree
37 crime is punishable by up to 18 months imprisonment, a fine of up
38 to \$10,000, or both.

39
40 LEADER OF ORGANIZED RETAIL THEFT ENTERPRISE

41 The bill upgrades the crime of "leader of organized retail theft
42 enterprise" to a crime of the first degree.

43 A first degree crime is punishable by 10 to 20 years
44 imprisonment, a fine of up to \$200,000, or both.

1 TAX EVASION

2 The bill increases the penalty for failure to pay taxes in
3 connection with being the leader of an organized retail theft
4 enterprise to a second degree crime.

5 A second degree crime is punishable by five to 10 years
6 imprisonment, a fine of up to \$150,000, or both.

7

8 PERSISTENT OFFENDER

9 The bill provides that a person may be sentenced to an extended
10 term of imprisonment for repeat convictions related to retail theft.

11 Under the bill, a person is a persistent offender if the person has
12 previously been convicted on two or more prior and separate
13 occasions of receiving stolen property, shoplifting, being a leader of
14 organized retail theft enterprise; or theft that involves the stealing of
15 merchandise, regardless of the dates of the convictions. A persistent
16 offender may be sentenced to an extended term, upon motion of the
17 prosecutor, if the prior conviction is for a crime committed on a
18 separate occasion and the crime for which the person is being
19 sentenced was either: (1) within 10 years of the date of the
20 defendant's last release from confinement for the commission of
21 any crime; or (2) within 10 years of the date of the commission of
22 the most recent violation of a crime established in the bill for which
23 the defendant has a prior conviction.

24

25 RETAIL THEFT AGGREGATION

26 The bill provides a one-year look back period for aggregation of
27 shoplifting violations. The bill provides that the value of
28 merchandise involved in a violation of the shoplifting statute may
29 be aggregated within the previous one-year period in determining
30 the grade of the offense where the acts or conduct constituting a
31 violation were committed pursuant to one scheme or course of
32 conduct, whether from the same person or several persons, or were
33 committed in furtherance of or in conjunction with an organized
34 retail theft enterprise.

35

36 FENCING

37 The bill updates the fencing statutes, N.J.S.A.2C:20-7.1, to
38 clarify that the statute also applies to online sales of stolen goods.

39

40 FOSTERING STOLEN PROPERTY

41 The bill also separately establishes the offense of fostering the
42 sale of stolen property. The offense is a disorderly persons offense.

43 A person commits an offense under the bill when: (1) the person
44 hosts, advertises, or otherwise assists the sale of stolen goods,
45 including on an Internet website; and (2) the person knows or
46 reasonably should know that the property was stolen.

1 The requisite knowledge is presumed in the case of a person who
2 undertook a substantial and unjustifiable risk that the persons
3 actions would result in the sale of stolen property.

4 A disorderly persons offense is punishable by up to six months
5 imprisonment, a fine of up to \$1,000, or both.

6

7 GIFT CARD FRAUD

8 The bill imposes certain packaging requirements for the sale of
9 open and closed-loop gift cards and requires the Division of
10 Consumer Affairs (DCA) in the Department of Law and Public
11 Safety to create a notice related to gift card fraud for dissemination
12 in locations which sell gift cards.

13 The bill defines “closed-loop gift card” as a gift card, code or
14 device that is: (1) issued to a consumer on a prepaid basis primarily
15 for personal, family, or household purposes in a specified amount,
16 regardless of whether that amount may be increased or reloaded in
17 exchange for payment; and (2) redeemable on presentation by a
18 consumer at a single retail mercantile establishment or a group of
19 affiliated retail mercantile establishments. Further, the bill defines
20 “open-loop gift card” as a card, code, or device that is: (1) issued to
21 a consumer on a prepaid basis primarily for personal, family, or
22 household purposes in a specified amount, regardless of whether
23 that amount may be increased or reloaded in exchange for payment;
24 (2) payment card network branded; and (3) redeemable on
25 presentation at multiple unaffiliated merchants for goods or services
26 within the payment card network or usable at an automated teller
27 machine.

28 The bill prohibits a retail mercantile establish from knowingly
29 selling an open- or closed-loop gift card to a consumer unless the
30 establishment conspicuously displays the notice provided by the
31 DCA and the packaging of the gift card meets certain requirements
32 in the bill.

33 Further, the bill establishes requirements as it relates to third-
34 party gift card resellers. The bill defines “third-party gift card
35 reseller” as a merchant who, without authorization from or
36 affiliation with the business entity issuing an open- or closed-loop
37 gift card, is engaged in the business of: (1) buying open- or closed-
38 loop gift cards on behalf of consumers; or (2) reselling open- or
39 closed-loop gift cards to consumers. These resellers are subject to
40 certain record maintenance requirements.

41 A retail mercantile establishment that violates the provisions of
42 N.J.S.A.56:8-110.1 et seq. or the provisions of the bill related to
43 open- or closed-loop gift card fraud is subject to a civil penalty of
44 \$1,000.

45

46 ORGANIZED RETAIL THEFT UNIT

47 Finally, the bill requires the Attorney General, in consultation
48 with the Director of the Division of Criminal Justice, to establish a

1 unit or other appropriate office to combat organized retail theft.
2 The unit, and the Division of Criminal Justice, will have the
3 authority to (1) investigate and, if warranted, prosecute cases
4 concerning acts of retail theft; and (2) assist county prosecutors in
5 the investigation and prosecution of acts of retail theft.

[First Reprint]

ASSEMBLY, No. 4755

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED SEPTEMBER 19, 2024

Sponsored by:

Assemblyman JOE DANIELSEN

District 17 (Middlesex and Somerset)

Assemblyman ALEX SAUICKIE

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblywoman HEATHER SIMMONS

District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

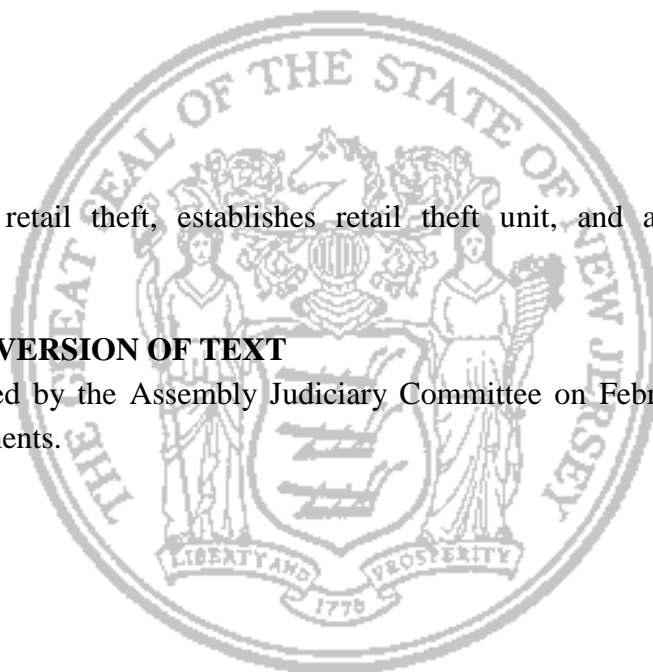
Assemblymen McGuckin, Azzariti Jr., Assemblywomen N.Munoz, Drulis, Assemblymen Spearman, DiMaio, Kanitra, Stanley, Assemblywoman McCoy, Assemblyman Inganamort, Assemblywoman Haider, Assemblymen Hutchison, Clifton, Assemblywoman Matsikoudis, Assemblymen Auth, Karabinchak, Marengo, Peterson, Sampson, Calabrese, Bailey, Assemblywomen Reynolds-Jackson, Park, Assemblyman Verrelli, Assemblywomen McCann Stamato, Flynn and Fantasia

SYNOPSIS

Concerns retail theft, establishes retail theft unit, and appropriates \$1 million.

CURRENT VERSION OF TEXT

As reported by the Assembly Judiciary Committee on February 13, 2025, with amendments.



(Sponsorship Updated As Of: 2/20/2025)

1 AN ACT concerning retail theft, amending and supplementing
2 various parts of the statutory law, and making an appropriation.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 7 of P.L.1981, c.167 (C.2C:20-7.1) is amended to
8 read as follows:

9 7. Fencing. a. Possession of altered property. Any dealer in
10 property who knew or should have known that the identifying
11 features such as serial numbers and permanently affixed labels of
12 property in his possession have been removed or altered without the
13 consent of the manufacturer is guilty of possession of altered
14 property. It is a defense to a prosecution under this subsection that
15 a person lawfully possesses the usual indicia of ownership in
16 addition to mere possession.

17 b. (1) Dealing in stolen property. A person is guilty of dealing in
18 stolen property if he traffics in, or initiates, organizes, plans,
19 finances, directs, manages or supervises trafficking in stolen
20 property, including through the use of an online platform via any
21 electronic device or through a social media site. This paragraph
22 shall not apply to dealing in stolen property consisting of a
23 domestic companion animal, addressed in paragraph (2) of this
24 subsection.

25 (2) Dealing in stolen domestic companion animals. A person is
26 guilty of dealing in stolen domestic companion animals if he
27 trafficks in, or initiates, organizes, plans, finances, directs, manages
28 or supervises trafficking in stolen property consisting of a domestic
29 companion animal.

30 c. (1) For any violation of this section, other than dealing in
31 stolen domestic companion animals, the value of the property
32 involved in the violation shall be determined by the trier of fact for
33 the purpose of determining the grade of the offense, and the value
34 of the property involved in the violation may be aggregated in
35 determining the grade of the offense where the acts or conduct
36 constituting a violation were committed pursuant to one scheme or
37 course of conduct, whether from the same person or several
38 persons.

39 (2) A violation of this section for dealing in stolen domestic
40 companion animals constitutes a crime of the third degree.

41 d. It is an affirmative defense to a prosecution under this
42 section that the actor:

43 (1) Was unaware that the property or service was that of
44 another;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AJU committee amendments adopted February 13, 2025.

1 (2) Acted under an honest claim of right to the property or
2 service involved or that he had a right to acquire or dispose of it as
3 he did.

4 e. In addition to the presumptions contained in subsection b. of
5 N.J.S.2C:20-7, the following presumptions are available in the
6 prosecution for a fencing offense:

7 (1) Proof of the purchase or sale of property at a price
8 substantially below its fair market value, unless satisfactorily
9 explained, gives rise to an inference that the person buying or
10 selling the property knew that it had been stolen;

11 (2) Proof of the purchase or sale of property by a dealer in that
12 property, out of the regular course of business, or without the usual
13 indicia of ownership other than mere possession, or the property or
14 the job lot of which it is a part was bought, received, possessed or
15 controlled in broken succession of title, so that it cannot be traced,
16 by appropriate documents, in unbroken succession to the
17 manufacturer, in all cases where the regular course of business
18 reasonably indicates records of purchase, transfer or sale, unless
19 satisfactorily explained, gives rise to an inference that the person
20 buying or selling the property knew that it had been stolen; and

21 (3) Proof that a person buying or selling property of the sort
22 received obtained such property without having ascertained by
23 reasonable inquiry that the person from whom he obtained it had a
24 legal right to possess or control it gives rise to an inference that
25 such person knew that it had been stolen.

26 (cf: P.L.2017, c.156, s.1)

27
28 2. (New section) a. ¹As used in P.L. _____, c. _____ (C. _____) (pending
29 before the Legislature as this bill):

30 “Online platform” means any public-facing Internet website,
31 Internet web application, or computer or mobile application, including
32 a social networking website or publication.

33 “Sale” means any sale, transfer, exchange, barter, or offer for sale
34 and distribution, in any manner or by any means whatsoever,
35 including, but not limited to, via an online platform.

36 b.¹ A person is guilty of fostering the sale of stolen property, a
37 disorderly persons offense, if the person ¹【:

38 (1) hosts ¹【, ¹acting alone or in concert with another person or
39 persons,¹ advertises ¹【, ¹ or otherwise assists ¹, by any means,
40 including through personal contact or through the use of an online
41 platform or any other communications channel or medium,¹ in the sale
42 of ¹【stolen goods, including through an online platform; and

43 (2) knows or reasonably should know that the property was stolen.
44 The requisite knowledge is presumed in the case of a person who
45 undertook a substantial and unjustifiable risk that the persons actions
46 would result in the sale of stolen property】 property of another
47 knowing that it has been stolen or reasonably believing that is it
48 stolen¹.

1 **¹[b.** As defined in this act:

2 “Online platform” means any public-facing Internet website,
3 Internet web application, or computer or mobile application, including
4 a social networking website or publication.

5 “Sale” means any sale, transfer, exchange, barter, or offer for sale
6 and distribution, in any manner or by any means whatsoever,
7 including, but not limited to, via an online platform.

8 “Stolen property” shall have the same meaning as defined pursuant
9 to N.J.S.2C:20-1. **]**

10 c. The following presumptions are available in the prosecution of
11 an offense under this section of fostering the sale of stolen property:

12 (1) Proof of the property being advertised for sale at a price
13 substantially below its fair market value, unless satisfactorily
14 explained, gives rise to an inference that the person advertising or
15 otherwise assisting in the sale of the property knew that it is stolen or
16 reasonably believed that the property is stolen; and

17 (2) Proof that a person advertised or otherwise assisted in the sale
18 of the property without having ascertained by reasonable inquiry that
19 the person offering the property for sale had a legal right to possess or
20 control it gives rise to an inference that such person knew that it is
21 stolen or reasonably believed that it is stolen.

22 d. Nothing in this section shall be construed to preclude or limit
23 the prosecution or conviction of any person for any other crime or
24 offense.¹

25

26 3. N.J.S.2C:12-1 is amended as follows:

27 2C:12-1. Assault. a. Simple assault. A person is guilty of assault if
28 the person:

29 (1) Attempts to cause or purposely, knowingly or recklessly causes
30 bodily injury to another; or

31 (2) Negligently causes bodily injury to another with a deadly
32 weapon; or

33 (3) Attempts by physical menace to put another in fear of
34 imminent serious bodily injury.

35 Simple assault is a disorderly persons offense unless committed in
36 a fight or scuffle entered into by mutual consent, in which case it is a
37 petty disorderly persons offense.

38 b. Aggravated assault. A person is guilty of aggravated assault if
39 the person:

40 (1) Attempts to cause serious bodily injury to another, or causes
41 injury purposely or knowingly or under circumstances manifesting
42 extreme indifference to the value of human life recklessly causes such
43 injury; or

44 (2) Attempts to cause or purposely or knowingly causes bodily
45 injury to another with a deadly weapon; or

46 (3) Recklessly causes bodily injury to another with a deadly
47 weapon; or

- 1 (4) Knowingly under circumstances manifesting extreme
2 indifference to the value of human life points a firearm, as defined in
3 subsection f. of N.J.S.2C:39-1, at or in the direction of another,
4 whether or not the actor believes it to be loaded; or
- 5 (5) Commits a simple assault as defined in paragraph (1), (2), or
6 (3) of subsection a. of this section upon:
- 7 (a) Any law enforcement officer acting in the performance of the
8 officer's duties while in uniform or exhibiting evidence of authority or
9 because of the officer's status as a law enforcement officer; or
- 10 (b) Any paid or volunteer firefighter acting in the performance of
11 the firefighter's duties while in uniform or otherwise clearly
12 identifiable as being engaged in the performance of the duties of a
13 firefighter; or
- 14 (c) Any person engaged in emergency first-aid or medical services
15 acting in the performance of the person's duties while in uniform or
16 otherwise clearly identifiable as being engaged in the performance of
17 emergency first-aid or medical services; or
- 18 (d) Any school board member, school administrator, teacher,
19 school bus driver, or other employee of a public or nonpublic school or
20 school board while clearly identifiable as being engaged in the
21 performance of the person's duties or because of the person's status as
22 a member or employee of a public or nonpublic school or school board
23 or any school bus driver employed by an operator under contract to a
24 public or nonpublic school or school board while clearly identifiable as
25 being engaged in the performance of the person's duties or because of
26 the person's status as a school bus driver; or
- 27 (e) Any employee of the Division of Child Protection and
28 Permanency while clearly identifiable as being engaged in the
29 performance of the employee's duties or because of the status as an
30 employee of the division; or
- 31 (f) Any justice of the Supreme Court, judge of the Superior Court,
32 judge of the Tax Court or municipal judge while clearly identifiable as
33 being engaged in the performance of judicial duties or because of the
34 status as a member of the judiciary; or
- 35 (g) Any operator of a motorbus or the operator's supervisor or any
36 employee of a rail passenger service while clearly identifiable as being
37 engaged in the performance of the person's duties or because of the
38 status as an operator of a motorbus or as the operator's supervisor or as
39 an employee of a rail passenger service; or
- 40 (h) Any Department of Corrections employee, county correctional
41 police officer, juvenile correctional police officer, State juvenile
42 facility employee, juvenile detention staff member, juvenile detention
43 officer, probation officer or any sheriff, undersheriff, or sheriff's
44 officer acting in the performance of the person's duties while in
45 uniform or exhibiting evidence of the person's authority or because of
46 the status as a Department of Corrections employee, county
47 correctional police officer, juvenile correctional police officer, State
48 juvenile facility employee, juvenile detention staff member, juvenile

1 detention officer, probation officer, sheriff, undersheriff, or sheriff's
2 officer; or

3 (i) Any employee, including any person employed under contract,
4 of a utility company as defined in section 2 of P.L.1971, c.224
5 (C.2A:42-86) or a cable television company subject to the provisions
6 of the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.)
7 while clearly identifiable as being engaged in the performance of the
8 employee's duties in regard to connecting, disconnecting, or repairing
9 or attempting to connect, disconnect, or repair any gas, electric, or
10 water utility, or cable television or telecommunication service; or

11 (j) Any health care worker employed by a licensed health care
12 facility to provide direct patient care, any health care professional
13 licensed or otherwise authorized pursuant to Title 26 or Title 45 of the
14 Revised Statutes to practice a health care profession, except a direct
15 care worker at a State or county psychiatric hospital or State
16 developmental center or veterans' memorial home, while clearly
17 identifiable as being engaged in the duties of providing direct patient
18 care or practicing the health care profession; or

19 (k) Any direct care worker at a State or county psychiatric hospital
20 or State developmental center or veterans' memorial home, while
21 clearly identifiable as being engaged in the duties of providing direct
22 patient care or practicing the health care profession, provided that the
23 actor is not a patient or resident at the facility who is classified by the
24 facility as having a mental illness or developmental disability; or

25 (l) Any employee of a 'store or other' retail mercantile
26 establishment ']. "Employee of a retail mercantile establishment"
27 means any person,]' while clearly identifiable as being engaged in the
28 performance of the person's duties '], engaged in the sale, display, or
29 offering for sale of consumer commodities and who is employed by
30 any place of business where merchandise is displayed, held, stored, or
31 sold or offered at retail to members of consuming public] . "Store or
32 other retail mercantile establishment" means the same as such term is
33 defined in N.J.S.2C:20-11. "Employee" means any person who
34 provides customer assistance, store management, visual
35 merchandising, loss prevention or security services, whether in
36 uniform or in plain clothes, or who acts as a cashier, salesperson, or
37 team associate or otherwise interacts with customers for or on behalf
38 of the store or other retail mercantile establishment'; or

39 (6) Causes bodily injury to another person while fleeing or
40 attempting to elude a law enforcement officer in violation of
41 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
42 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any
43 other provision of law to the contrary, a person shall be strictly liable
44 for a violation of this paragraph upon proof of a violation of subsection
45 b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of
46 subsection c. of N.J.S.2C:20-10 which resulted in bodily injury to
47 another person; or

- 1 (7) Attempts to cause significant bodily injury to another or causes
2 significant bodily injury purposely or knowingly or, under
3 circumstances manifesting extreme indifference to the value of human
4 life recklessly causes such significant bodily injury; or
- 5 (8) Causes bodily injury by knowingly or purposely starting a fire
6 or causing an explosion in violation of N.J.S.2C:17-1 which results in
7 bodily injury to any emergency services personnel involved in fire
8 suppression activities, rendering emergency medical services resulting
9 from the fire or explosion or rescue operations, or rendering any
10 necessary assistance at the scene of the fire or explosion, including any
11 bodily injury sustained while responding to the scene of a reported fire
12 or explosion. For purposes of this paragraph, “emergency services
13 personnel” shall include, but not be limited to, any paid or volunteer
14 firefighter, any person engaged in emergency first-aid or medical
15 services and any law enforcement officer. Notwithstanding any other
16 provision of law to the contrary, a person shall be strictly liable for a
17 violation of this paragraph upon proof of a violation of N.J.S.2C:17-1
18 which resulted in bodily injury to any emergency services personnel;
19 or
- 20 (9) Knowingly, under circumstances manifesting extreme
21 indifference to the value of human life, points or displays a firearm, as
22 defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a law
23 enforcement officer; or
- 24 (10) Knowingly points, displays or uses an imitation firearm, as
25 defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a
26 law enforcement officer with the purpose to intimidate, threaten, or
27 attempt to put the officer in fear of bodily injury or for any unlawful
28 purpose; or
- 29 (11) Uses or activates a laser sighting system or device, or a
30 system or device which, in the manner used, would cause a reasonable
31 person to believe that it is a laser sighting system or device, against a
32 law enforcement officer acting in the performance of the officer’s
33 duties while in uniform or exhibiting evidence of the officer’s
34 authority. As used in this paragraph, “laser sighting system or device”
35 means any system or device that is integrated with or affixed to a
36 firearm and emits a laser light beam that is used to assist in the sight
37 alignment or aiming of the firearm; or
- 38 (12) Attempts to cause significant bodily injury or causes
39 significant bodily injury purposely or knowingly or, under
40 circumstances manifesting extreme indifference to the value of human
41 life, recklessly causes significant bodily injury to a person who, with
42 respect to the actor, meets the definition of a victim of domestic
43 violence, as defined in subsection d. of section 3 of P.L.1991, c.261
44 (C.2C:25-19); or
- 45 (13) Knowingly or, under circumstances manifesting extreme
46 indifference to the value of human life, recklessly obstructs the
47 breathing or blood circulation of a person who, with respect to the
48 actor, meets the definition of a victim of domestic violence, as defined
49 in subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-19), by

1 applying pressure on the throat or neck or blocking the nose or mouth
2 of such person, thereby causing or attempting to cause bodily injury.

3 Aggravated assault under paragraphs (1) and (6) of subsection b. of
4 this section is a crime of the second degree; under paragraphs (2), (7),
5 (9), and (10) of subsection b. of this section is a crime of the third
6 degree; under paragraphs (3) and (4) of subsection b. of this section is
7 a crime of the fourth degree; and under paragraph (5) of subsection b.
8 of this section is a crime of the third degree if the victim suffers bodily
9 injury, otherwise it is a crime of the fourth degree, except that any
10 aggravated assault under subparagraph (g) of paragraph (5) of
11 subsection b. of this section shall be a crime of the third degree.
12 Aggravated assault under paragraph (8) of subsection b. of this section
13 is a crime of the third degree if the victim suffers bodily injury; if the
14 victim suffers significant bodily injury or serious bodily injury it is a
15 crime of the second degree. Aggravated assault under paragraph (11)
16 of subsection b. of this section is a crime of the third degree.
17 Aggravated assault under paragraph (12) of subsection b. of this
18 section is a crime of the third degree but the presumption of non-
19 imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first
20 offense of a crime of the third degree shall not apply. Aggravated
21 assault under paragraph (13) of subsection b. of this section is a crime
22 of the second degree.

23 c. (1) A person is guilty of assault by auto or vessel when the
24 person drives a vehicle or vessel recklessly and causes either serious
25 bodily injury or bodily injury to another. Assault by auto or vessel is a
26 crime of the fourth degree if serious bodily injury results and is a
27 disorderly persons offense if bodily injury results. Proof that the
28 defendant was operating a hand-held wireless telephone while driving
29 a motor vehicle in violation of section 1 of P.L.2003, c.310 (C.39:4-
30 97.3) may give rise to an inference that the defendant was driving
31 recklessly.

32 (2) Assault by auto or vessel is a crime of the third degree if the
33 person drives the vehicle while in violation of R.S.39:4-50 or section 2
34 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily injury results and
35 is a crime of the fourth degree if the person drives the vehicle while in
36 violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a)
37 and bodily injury results.

38 (3) Assault by auto or vessel is a crime of the second degree if
39 serious bodily injury results from the defendant operating the auto or
40 vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981,
41 c.512 (C.39:4-50.4a) while:

42 (a) on any school property used for school purposes which is
43 owned by or leased to any elementary or secondary school or school
44 board, or within 1,000 feet of such school property;

45 (b) driving through a school crossing as defined in R.S.39:1-1 if
46 the municipality, by ordinance or resolution, has designated the school
47 crossing as such; or

1 (c) driving through a school crossing as defined in R.S.39:1-1
2 knowing that juveniles are present if the municipality has not
3 designated the school crossing as such by ordinance or resolution.

4 Assault by auto or vessel is a crime of the third degree if bodily
5 injury results from the defendant operating the auto or vessel in
6 violation of this paragraph.

7 A map or true copy of a map depicting the location and boundaries
8 of the area on or within 1,000 feet of any property used for school
9 purposes which is owned by or leased to any elementary or secondary
10 school or school board produced pursuant to section 1 of P.L.1987,
11 c.101 (C.2C:35-7) may be used in a prosecution under subparagraph
12 (a) of paragraph (3) of this subsection.

13 It shall be no defense to a prosecution for a violation of
14 subparagraph (a) or (b) of paragraph (3) of this subsection that the
15 defendant was unaware that the prohibited conduct took place while on
16 or within 1,000 feet of any school property or while driving through a
17 school crossing. Nor shall it be a defense to a prosecution under
18 subparagraph (a) or (b) of paragraph (3) of this subsection that no
19 juveniles were present on the school property or crossing zone at the
20 time of the offense or that the school was not in session.

21 (4) Assault by auto or vessel is a crime of the third degree if the
22 person purposely drives a vehicle in an aggressive manner directed at
23 another vehicle and serious bodily injury results and is a crime of the
24 fourth degree if the person purposely drives a vehicle in an aggressive
25 manner directed at another vehicle and bodily injury results. For
26 purposes of this paragraph, "driving a vehicle in an aggressive
27 manner" shall include, but is not limited to, unexpectedly altering the
28 speed of the vehicle, making improper or erratic traffic lane changes,
29 disregarding traffic control devices, failing to yield the right of way, or
30 following another vehicle too closely.

31 As used in this subsection, "vessel" means a means of conveyance
32 for travel on water and propelled otherwise than by muscular power.

33 d. A person who is employed by a facility as defined in section 2
34 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as
35 defined in paragraph (1) or (2) of subsection a. of this section upon an
36 institutionalized elderly person as defined in section 2 of P.L.1977,
37 c.239 (C.52:27G-2) is guilty of a crime of the fourth degree.

38 e. (Deleted by amendment, P.L.2001, c.443).

39 f. A person who commits a simple assault as defined in paragraph
40 (1), (2), or (3) of subsection a. of this section in the presence of a child
41 under 16 years of age at a school or community sponsored youth sports
42 event is guilty of a crime of the fourth degree. The defendant shall be
43 strictly liable upon proof that the offense occurred, in fact, in the
44 presence of a child under 16 years of age. It shall not be a defense that
45 the defendant did not know that the child was present or reasonably
46 believed that the child was 16 years of age or older. The provisions of
47 this subsection shall not be construed to create any liability on the part
48 of a participant in a youth sports event or to abrogate any immunity or
49 defense available to a participant in a youth sports event. As used in

1 this act, “school or community sponsored youth sports event” means a
2 competition, practice, or instructional event involving one or more
3 interscholastic sports teams or youth sports teams organized pursuant
4 to a nonprofit or similar charter or which are member teams in a youth
5 league organized by or affiliated with a county or municipal recreation
6 department and shall not include collegiate, semi-professional or
7 professional sporting events.

8 (cf: P.L.2021, c.352, s.1)

9

10 4. N.J.S.2C:20-11 is amended to read as follows:

11 a. Definitions. The following definitions apply to this section:

12 (1) “Shopping cart” means those push carts of the type or types
13 which are commonly provided by grocery stores, drug stores or other
14 retail mercantile establishments for the use of the public in
15 transporting commodities in stores and markets and, incidentally,
16 from the stores to a place outside the store;

17 (2) “Store or other retail mercantile establishment” means a place
18 where merchandise is displayed, held, stored or sold or offered to the
19 public for sale;

20 (3) “Merchandise” means any goods, chattels, foodstuffs or wares
21 of any type and description, regardless of the value thereof;

22 (4) “Merchant” means any owner or operator of any store or other
23 retail mercantile establishment, or any agent, servant, employee,
24 lessee, consignee, officer, director, franchisee or independent
25 contractor of such owner or proprietor;

26 (5) “Person” means any individual or individuals, including an
27 agent, servant or employee of a merchant where the facts of the
28 situation so require;

29 (6) “Conceal” means to conceal merchandise so that, although
30 there may be some notice of its presence, it is not visible through
31 ordinary observation;

32 (7) “Full retail value” means the merchant’s stated or advertised
33 price of the merchandise;

34 (8) “Premises of a store or retail mercantile establishment” means
35 and includes but is not limited to, the retail mercantile establishment;
36 any common use areas in shopping centers and all parking areas set
37 aside by a merchant or on behalf of a merchant for the parking of
38 vehicles for the convenience of the patrons of such retail mercantile
39 establishment;

40 (9) “Under-ring” means to cause the cash register or other sale
41 recording device to reflect less than the full retail value of the
42 merchandise;

43 (10) “Antishoplifting or inventory control device countermeasure”
44 means any item or device which is designed, manufactured, modified,
45 or altered to defeat any antishoplifting or inventory control device;

46 (11) “Organized retail theft enterprise” means any association of
47 two or more persons who engage in the conduct of or are associated
48 for the purpose of effectuating the transfer or sale of shoplifted
49 merchandise.

1 b. Shoplifting. Shoplifting shall consist of any one or more of the
2 following acts:

3 (1) For any person purposely to take possession of, carry away,
4 transfer or cause to be carried away or transferred, any merchandise
5 displayed, held, stored or offered for sale by any store or other retail
6 mercantile establishment with the intention of depriving the merchant
7 of the possession, use or benefit of such merchandise or converting the
8 same to the use of such person without paying to the merchant the full
9 retail value thereof.

10 (2) For any person purposely to conceal upon his person or
11 otherwise any merchandise offered for sale by any store or other retail
12 mercantile establishment with the intention of depriving the merchant
13 of the processes, use or benefit of such merchandise or converting the
14 same to the use of such person without paying to the merchant the
15 value thereof.

16 (3) For any person purposely to alter, transfer or remove any label,
17 price tag or marking indicia of value or any other markings which aid
18 in determining value affixed to any merchandise displayed, held,
19 stored or offered for sale by any store or other retail mercantile
20 establishment and to attempt to purchase such merchandise personally
21 or in consort with another at less than the full retail value with the
22 intention of depriving the merchant of all or some part of the value
23 thereof.

24 (4) For any person purposely to transfer any merchandise
25 displayed, held, stored or offered for sale by any store or other retail
26 merchandise establishment from the container in or on which the same
27 shall be displayed to any other container with intent to deprive the
28 merchant of all or some part of the retail value thereof.

29 (5) For any person purposely to under-ring with the intention of
30 depriving the merchant of the full retail value thereof.

31 (6) For any person purposely to remove a shopping cart from the
32 premises of a store or other retail mercantile establishment without the
33 consent of the merchant given at the time of such removal with the
34 intention of permanently depriving the merchant of the possession, use
35 or benefit of such cart.

36 c. Gradation. (1) Shoplifting constitutes a crime of the second
37 degree under subsection b. of this section if the full retail value of the
38 merchandise is \$75,000 or more, or the offense is committed in
39 furtherance of or in conjunction with an organized retail theft
40 enterprise and the full retail value of the merchandise is \$1,000 or
41 more.

42 (2) Shoplifting constitutes a crime of the third degree under
43 subsection b. of this section if the full retail value of the merchandise
44 exceeds \$500 but is less than \$75,000, or the offense is committed in
45 furtherance of or in conjunction with an organized retail theft
46 enterprise and the full retail value of the merchandise is less than
47 \$1,000.

1 (3) Shoplifting constitutes a crime of the fourth degree under
2 subsection b. of this section if the full retail value of the merchandise
3 is at least \$200 but does not exceed \$500.

4 (4) Shoplifting is a disorderly persons offense under subsection b.
5 of this section if the full retail value of the merchandise is less than
6 \$200.

7 The '[total]' value of the merchandise involved in a violation or
8 'in' multiple violations of this section may be aggregated '[within the
9 previous one-year period]' in determining the grade of the offense
10 where the acts or conduct constituting a violation were committed
11 pursuant to one scheme or course of conduct, whether from the same
12 person or several persons 'and regardless of the time period over
13 which the scheme or course of conduct took place', or were committed
14 in furtherance of or in conjunction with an organized retail theft
15 enterprise.

16 Additionally, notwithstanding the term of imprisonment provided
17 in N.J.S.2C:43-6 or 2C:43-8, any person convicted of a shoplifting
18 offense shall be sentenced to perform community service as follows:
19 for a first offense, at least ten days of community service; for a second
20 offense, at least 15 days of community service; and for a third or
21 subsequent offense, a maximum of 25 days of community service and
22 any person convicted of a third or subsequent shoplifting offense shall
23 serve a minimum term of imprisonment of not less than 90 days.

24 d. Presumptions. Any person purposely concealing unpurchased
25 merchandise of any store or other retail mercantile establishment,
26 either on the premises or outside the premises of such store or other
27 retail mercantile establishment, shall be prima facie presumed to have
28 so concealed such merchandise with the intention of depriving the
29 merchant of the possession, use or benefit of such merchandise
30 without paying the full retail value thereof, and the finding of such
31 merchandise concealed upon the person or among the belongings of
32 such person shall be prima facie evidence of purposeful concealment;
33 and if such person conceals, or causes to be concealed, such
34 merchandise upon the person or among the belongings of another, the
35 finding of the same shall also be prima facie evidence of willful
36 concealment on the part of the person so concealing such merchandise.

37 e. A law enforcement officer, or a special officer, or a merchant,
38 who has probable cause for believing that a person has willfully
39 concealed unpurchased merchandise and that he can recover the
40 merchandise by taking the person into custody, may, for the purpose of
41 attempting to effect recovery thereof, take the person into custody and
42 detain him in a reasonable manner for not more than a reasonable time,
43 and the taking into custody by a law enforcement officer or special
44 officer or merchant shall not render such person criminally or civilly
45 liable in any manner or to any extent whatsoever.

46 Any law enforcement officer may arrest without warrant any
47 person he has probable cause for believing has committed the offense
48 of shoplifting as defined in this section.

1 A merchant who causes the arrest of a person for shoplifting, as
2 provided for in this section, shall not be criminally or civilly liable in
3 any manner or to any extent whatsoever where the merchant has
4 probable cause for believing that the person arrested committed the
5 offense of shoplifting.

6 f. Any person who possesses or uses any antishoplifting or
7 inventory control device countermeasure within any store or other
8 retail mercantile establishment is guilty of a disorderly persons
9 offense.

10 (cf: P.L.2006, c.56, s.1)

11

12 ¹5. Section 2 of P.L.2006, c.56 (C.2C:20-11.2) is amended to
13 read as follows:

14 2. A person is a leader of an organized retail theft enterprise if
15 he conspires with others as an organizer, supervisor, financier or
16 manager, to engage for profit in a scheme or course of conduct to
17 effectuate the transfer or sale of shoplifted merchandise. Leader of
18 organized retail theft enterprise is a crime of the ~~second~~ first
19 degree. Notwithstanding the provisions of subsection a. of
20 N.J.S.2C:43-3, the court may impose a fine not to exceed \$250,000
21 or five times the retail value of the merchandise seized at the time
22 of the arrest, whichever is greater.

23 Notwithstanding the provisions of N.J.S.2C:1-8, a conviction of
24 leader of organized retail theft enterprise shall not merge with the
25 conviction for any offense which is the object of the conspiracy.
26 Nothing contained in this section shall prohibit the court from
27 imposing an extended term pursuant to N.J.S.2C:43-7; nor shall this
28 section be construed in any way to preclude or limit the prosecution
29 or conviction of any person for conspiracy under N.J.S.2C:5-2, or
30 any prosecution or conviction for any other offense.

31 It shall not be necessary in any prosecution under this section for
32 the State to prove that any intended profit was actually realized. The
33 trier of fact may infer that a particular scheme or course of conduct
34 was undertaken for profit from all of the attending circumstances,
35 including but not limited to the number of persons involved in the
36 scheme or course of conduct, the actor's net worth and his
37 expenditures in relation to his legitimate sources of income, the
38 amount of merchandise involved, or the amount of cash or currency
39 involved.

40 It shall not be a defense to a prosecution under this section that
41 any shoplifted merchandise was brought into or transported in this
42 State solely for ultimate distribution in another jurisdiction; nor
43 shall it be a defense that any profit was intended to be made in
44 another jurisdiction.

45 (cf: P.L.2006, c.56, s.2)¹

46

47 ¹6. 5.1 (New section) a. Upon request of the prosecutor, a
48 person who has been convicted of shoplifting pursuant to

1 N.J.S.2C:20-11, receiving stolen property pursuant to N.J.S.2C:20-
2 7, leader of organized retail theft enterprise pursuant to section 2 of
3 P.L.2006, c.56 (C.2C:20-11.2); or theft as defined in chapter 20 of
4 Title 2C of the New Jersey Statutes that involves the stealing of
5 merchandise from a retail mercantile establishment shall be
6 sentenced to an extended term of imprisonment pursuant to
7 N.J.S.2C:43-7 if the person has previously been convicted on two or
8 more prior and separate occasions, regardless of the dates of the
9 convictions, in accordance with the provisions of subsection b. of
10 this section, for a violation of paragraphs (1) or (2) of subsection c.
11 of N.J.S.2C:20-11, N.J.S.2C:20-7, section 2 of P.L.2006, c.56
12 (C.2C:20-11.2), or theft as defined in chapter 20 of Title 2C of the
13 New Jersey Statutes involving the stealing of merchandise, or a
14 crime under any statute of the United States, this State, or any other
15 state for a crime that is substantially equivalent to a violation of
16 shoplifting, leader of organized retail theft enterprise, or theft
17 involving merchandise.

18 b. The provisions of this section shall not apply unless the prior
19 convictions are for crimes committed on separate occasions and the
20 crime for which the defendant is being sentenced was committed
21 either:

22 (1) within 10 years of the date of the defendant's last release
23 from confinement for the commission of any crime; or

24 (2) within 10 years of the date of the commission of the most
25 recent of the crimes enumerated in subsection a. of this section for
26 which the defendant has a prior conviction.

27 c. Prior convictions shall be defined and proven in accordance
28 with N.J.S.2C:44-4.

29 d. The court shall not impose a sentence of imprisonment
30 pursuant to this section unless the ground therefor has been
31 established at a hearing after the conviction of the defendant and on
32 written notice to the defendant of the ground proposed. The
33 defendant shall have the right to hear and controvert the evidence
34 against him and to offer evidence upon the issue.

35
36 ¹~~7.~~ 6.¹ (New section) a. The Attorney General shall ¹~~],~~ in
37 consultation with the Director of the Division of Criminal Justice,
38 establish ~~]~~ undertake such steps as the Attorney General deems
39 appropriate to promote the effective investigation, prosecution, and
40 deterrence of organized retail theft in this State, which may include
41 establishing¹ a retail theft unit ¹, task force,¹ or other appropriate
42 office ¹or initiative¹ in the Department of Law and Public Safety to
43 combat organized retail theft ¹~~]~~ in this State. The Attorney General
44 shall ~~]~~ or the implementation of a Statewide policy to direct and
45 coordinate State and local law enforcement efforts to¹ investigate
46 ¹~~],~~ coordinate, and supply resources to ~~]~~ and¹ prosecute organized
47 retail theft.

1 b. (1). In a manner prescribed by the Attorney General, a
2 county prosecutor, law enforcement officer, special officer, or retail
3 merchant may notify the Division of Criminal Justice ¹, or other
4 entity within the Department of Law and Public Safety designated
5 by the Attorney General to receive notice,¹ of allegations that a
6 crime of retail theft was committed.

7 (2) In a manner prescribed by the Attorney General, a county
8 prosecutor shall notify the Division of Criminal Justice ¹, or other
9 entity within the Department of Law and Public Safety designated
10 by the Attorney General to receive notice,¹ that a crime of retail
11 theft was allegedly committed by a defendant if:

12 (a) there is probable cause that the defendant has committed two
13 or more acts of retail theft in the State;

14 (b) there is probable cause that the defendant has committed one
15 or more acts of retail theft in this State and one or more acts of
16 retail theft in another state; or

17 (c) the defendant has previously been convicted of retail theft in
18 this State or another state.

19 c. ¹**【The】** In addition to any other authority provided under the
20 law, the¹ Division of Criminal Justice shall have the authority to:

21 (1) investigate and, if warranted, prosecute cases concerning
22 acts of retail theft; and

23 (2) assist county prosecutors in the investigation and prosecution
24 of acts of retail theft.

25 d. As used in this section, “retail theft” shall include the crimes
26 of shoplifting pursuant to N.J.S.2C:20-11; leader of organized retail
27 theft enterprise pursuant to section 2 of P.L.2006, c.56 (C.2C:20-
28 11.2); or theft as defined in chapter 20 of Title 2C of the New
29 Jersey Statutes that involves the stealing of merchandise.

30
31 ¹**【8.】** 7.¹ Section 19 of P.L.1987, c.76 (C.54:52-9) is amended
32 to read as follows:

33 19. a. A person is guilty of a crime of the third degree if he fails
34 to pay or turn over when due any tax, fee, penalty or interest or any
35 part thereof required to be paid pursuant to the provisions of the
36 State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., as amended
37 and supplemented, or any State tax law, with the intent to evade,
38 avoid or otherwise not make timely payment or deposit of any tax,
39 fee, penalty or interest or any part thereof. The crime shall be of
40 the second degree if ¹**【a person fails to pay or turn over when due**
41 **any】** any portion of the¹ tax, fee, penalty or interest or any part
42 thereof required to be paid ¹**【in connection with the person being a**
43 **leader of an organized retail theft enterprise】** or turned over was
44 accrued through conduct committed¹ in violation ¹of¹ section 2 of
45 P.L.2006, c.56 (C.2C:20-11.2) ¹, otherwise it shall be a crime of the
46 third degree¹.

1 b. The fact that any payment was made with a subsequently
2 dishonored negotiable instrument shall constitute prima facie
3 evidence that the actor failed to pay within the meaning of
4 subsection a. of this section, and the trier of fact may draw a
5 permissive inference therefrom that the actor did not intend to make
6 the payment.

7 (cf: P.L.1987, c.76, s.19)

8

9 **‘[9.] 8.**¹ Section 25 of P.L.1987, c.76 (C.54:52-15) is
10 amended to read as follows:

11 25. A person is guilty of a crime of the third degree if **‘[he]**¹,
12 after having collected or withheld taxes as required by any State tax
13 law, whether or not **‘[he] the person**¹ is authorized, licensed, or
14 registered to collect or withhold taxes, **‘the person**¹ purposely fails
15 to turn over the taxes to the Director of the Division of Taxation in
16 the manner and at the time prescribed by law. The crime shall be of
17 the second degree if the amount of the tax collected or withheld is
18 \$75,000.00 or more, or if the **‘[person is a leader of]** taxes the
19 person failed to turn over to the Director of the Division of Taxation
20 were collected or withheld as part of¹ an organized retail theft
21 enterprise in violation of section 2 of P.L.2006, c.56 (C.2C:20-
22 11.2).

23 (cf: P.L.1987, c.76, s.25)

24

25 **‘[10.] 9.**¹ Section 1 of P.L.2021, c.431 (C.56:8-110.1) is
26 amended to read as follows:

27 1. a. Every retail mercantile establishment in this State that
28 displays **‘[open-loop gift cards or closed-loop]**¹ gift cards for sale
29 shall train employees on how to identify and respond to **‘[open-**
30 loop gift card or closed-loop]¹ gift card fraud. A retail mercantile
31 establishment shall conduct the training in accordance with
32 guidelines issued pursuant to section 2 of **[this act] P.L.2021, c.431**
33 **(C.56:8-110.2).**

34 b. A retail mercantile establishment that violates the provisions
35 of this section or section 10 of P.L. _____, c. _____ (C. _____) (pending
36 before the Legislature as this bill) shall be subject to a civil penalty
37 of \$1,000, which may be collected and enforced by the Director of
38 the Division of Consumer Affairs in the Department of Law and
39 Public Safety in a summary proceeding pursuant to the “Penalty
40 Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).
41 The Superior Court shall have jurisdiction of proceedings for the
42 enforcement of the penalty provided by this section.

43 A violation of this section shall not be considered an unlawful
44 practice in violation of P.L.1960, c.39 (C.56:8-1 et seq.).

45 c. As used in **‘[this]**¹ **[section] P.L.2021, c.431, and section 10**
46 **of P.L. _____, c. _____ (C. _____) (pending before the Legislature as this bill):**

1 ¹["Closed-loop gift card" means a gift card, code or device that
2 is:

3 (1) issued to a consumer on a prepaid basis primarily for
4 personal, family, or household purposes in a specified amount,
5 regardless of whether that amount may be increased or reloaded in
6 exchange for payment; and

7 (2) redeemable on presentation by a consumer at a single retail
8 mercantile establishment or a group of affiliated retail mercantile
9 establishments.

10 "Gift card" means a tangible device, whereon is embedded or
11 encoded in an electronic or other format a value issued in exchange
12 for payment, which promises to provide to the bearer merchandise
13 of equal value to the remaining balance of the device.】

14 "Gift card" means a tangible device, whereon is embedded or
15 encoded in an electronic or other format a value issued in exchange
16 for payment, which promises to provide to the bearer merchandise
17 of equal value to the remaining balance of the device. A "gift card"
18 shall not include a stored value reloadable card as defined in
19 subsection k. of section 5 of P.L.2010, c.25 (C.46:30B-42.1).¹

20 "Merchandise" means any objects, wares, goods, commodities,
21 services, or anything offered, directly or indirectly, to the public for
22 sale.

23 ¹["Open-Loop Gift Card" means a card, code, or device that is:

24 (1) issued to a consumer on a prepaid basis primarily for
25 personal, family, or household purposes in a specified amount,
26 regardless of whether that amount may be increased or reloaded in
27 exchange for payment;

28 (2) payment card network branded; and

29 (3) redeemable on presentation at multiple unaffiliated merchants
30 for goods or services within the payment card network or usable at
31 an automated teller machine.】¹

32 "Retail mercantile establishment" means any place of business
33 where merchandise is exposed or offered for sale at retail to
34 members of the consuming public.

35 "Third-Party Gift Card Reseller" means a merchant who, without
36 authorization from or affiliation with the business entity issuing
37 ¹an open- or closed-loop】 a¹ gift card, is engaged in the business
38 of:

39 (1) buying ¹an open- or closed-loop】¹ gift cards on behalf of
40 consumers; or

41 (2) reselling ¹an open- or closed-loop】¹ gift cards to consumers.
42 (cf: P.L.2021, c.431, s.1)

43
44 ¹【11.】 10.¹ (New section) a. The Director of the Division of
45 Consumer Affairs in the Department of Law and Public Safety shall

1 create and ¹~~provide~~ make available on its Internet website¹ a
2 notice to ¹customers of¹ retail mercantile establishments which
3 shall include, but not be limited to:

- 4 (1) the risk of gift card scams; and
5 (2) available assistance, including from the Division of
6 Consumer Affairs, a consumer may seek if the consumer suspects
7 they may be a victim of a gift card scam.

8 b. (1) ¹~~Except as provided in subsection e. of this section, a~~
9 A¹ retail mercantile establishment may not knowingly sell ¹~~an~~
10 open-loop gift card or closed-loop ¹a gift card to a consumer
11 unless the retail mercantile establishment conspicuously displays a
12 notice in a form as prescribed by the Director of the Division of
13 Consumer Affairs in accordance with subsection a. of this section.

14 (2) For in-person sales, the notice shall be placed at or near the
15 physical location where the ¹~~open-loop~~¹ gift card is displayed for
16 sale or where the ¹~~sale of the open-loop~~¹ gift card ¹~~is sold~~ sales
17 transaction takes place¹.

18 (3) For online sales of ¹~~open-loop~~¹ gift cards, the notice shall
19 be displayed on the webpage where the gift card is offered for sale
20 or before the sale is finalized.

21 c. ¹~~For the sale of an open-loop~~ Except as otherwise
22 provided in subsection d. of this section, a retail mercantile
23 establishment may not display or sell a ¹ gift card ¹~~pursuant to~~
24 paragraph (2) of subsection b., the gift card shall be enclosed in
25 packaging that ¹unless:

26 (1) ¹the gift card or its packaging includes in a manner visible to
27 potential purchasers when on display a warning that states “Do not
28 sell or purchase if the gift card or its packaging has been broken or
29 indicates tampering” or that uses substantially similar language;

30 (2) the gift card, if enclosed in packaging,¹ is sealed in a manner
31 that is not easily opened¹, removed, or replaced¹ without signs of
32 tampering;

33 ¹~~(2) except as provided in paragraph (3) of this subsection,~~
34 conceals ¹and

35 (3) regardless of whether the gift card is or is not enclosed in
36 packaging,¹ all numeric codes specific to the activation or the
37 redemption of the gift card, including any bar code, CVV number,
38 pin number, or activation code¹;

39 (3) displays an activation code, bar code, or other activation data
40 only if the packaging used is more secure than it otherwise would
41 be if the data were fully concealed; and

42 (4) includes a warning that states the following or uses language
43 substantially similar to the following: “Do not sell or purchase if
44 packaging has been broken or indicates tampering.” ¹are either
45 fully concealed or covered or, only if the gift card is enclosed in
46 packaging that is designed to make the gift card more secure than

1 full concealment or covering otherwise would, are partially
2 concealed or covered.¹

3 d. ¹**[**For the sale of a closed-loop gift card, the gift card shall
4 be enclosed in packaging that:

5 (1) conceals or covers, in a manner that is not easily removed or
6 replaced without signs of tampering, all numeric codes specific to
7 the redemption of the gift card; or

8 (2) if made more secure through partial concealment or covering
9 than full concealment or covering pursuant to paragraph (1) of this
10 subsection, partially conceals or covers, in a manner that is not
11 easily removed or replaced without signs of tampering, all numeric
12 codes specific to redemption of the gift card; and

13 (3) includes a warning that states the following or uses language
14 substantially similar to the following: “Do not sell or purchase if
15 packaging has been broken or indicates tampering.”

16 e.¹ A retail mercantile establishment may ¹display or¹ sell ¹**[**an
17 open- or closed loop] a¹ gift card that ¹**[**is not enclosed in secured
18 packaging pursuant to] does not conform to the requirements of
19 paragraphs (2) and (3) of¹ subsection c. ¹**[**or d.¹**]** of this section if:

20 (1) the gift card is a chip-enabled, numberless card that is
21 activated by a consumer after registering the card on the card
22 issuer’s website; ¹**[**or¹**]**

23 (2) the gift card is:

24 (a) sold exclusively by a retail mercantile establishment for use
25 only at the retail mercantile establishment or a group of affiliated
26 retail mercantile establishments for use at the retail mercantile
27 establishments of the affiliated establishments; and

28 (b) is secured in a physical location within the retail mercantile
29 establishment that is accessible only by an employee¹, or

30 (3) the gift card or its packaging:

31 (a) incorporates technology that is designed to prevent activation
32 if the gift card or its packaging has been subjected to tampering; or

33 (b) incorporates technology that is designed to detect and prevent
34 unauthorized redemption¹.

35 ¹**[**f.¹ e.¹ (1) When a third-party gift card reseller buys or sells
36 ¹**[**an open-loop] a¹ gift card as part of a transaction occurring in
37 this State, the reseller shall record and, for at least three years,
38 maintain a copy of the following information as applicable:

39 (a) the date of the transaction;

40 (b) the name of the person who conducted the transaction;

41 (c) the name, age, and address of the seller of the gift card;

42 (d) the seller’s and consumer’s driver’s license number or
43 identification card number;

44 (e) a description of the purchased gift card, including, but not
45 limited to, the retailer for which the gift card is intended for use and
46 the gift card number;

47 (f) the specific amount issued on the gift card;

48 (g) the transaction price;

1 (h) the signature of the consumer.

2 (2) The information recorded and maintained pursuant to this
3 section shall be chronologically written in ink or logged into a
4 secure database, software system, or other similar technology
5 platform.

6 (3) Except as provided in paragraph (4) of this subsection,
7 recorded information may not be destroyed, altered, or erased.

8 (4) A handwritten correction may be made to an entry of
9 information by drawing a line of ink through the entry in a manner
10 that retains legibility.

11 (5) Information recorded pursuant to this subsection shall be
12 open to inspection by any duly authorized law enforcement officer
13 in this State during the ordinary business hours of the third-party
14 gift card reseller or at other reasonable time.

15 f. A third-party gift card reseller, including an agent or
16 employee of the third-party gift card reseller may not:

17 (1) fail to make an entry of or falsify, destroy, or remove any
18 information required to be recorded and maintained pursuant to this
19 section;

20 (2) refuse to allow any duly authorized law enforcement officer
21 in this State to inspect a record of information or open- or closed-
22 loop gift cards in the reseller's possession; or

23 (3) fail to maintain a record in pursuant to this section.

24 g. Upon ¹the filing of an official report to ¹request of¹ a law
25 enforcement agency ¹by any person alleging to be a victim¹
26 conducting an investigation into allegations¹ of theft of one or more
27 ¹open- or closed-loop¹ gift cards ¹with an aggregate value
28 exceed \$500, law enforcement may request that ¹the issuer of the
29 gift cards or the issuer's agents ¹shall¹ preserve and provide law
30 enforcement ¹with¹ all relevant evidence ¹so requested¹.

31

32 ¹12. ¹11. ¹ There is appropriated from the General Fund to the
33 Department of Law and Public Safety the sum of \$1,000,000 to
34 effectuate the provisions of this act.

35

36 ¹13. ¹12. ¹ This act shall take effect immediately, except that
37 sections ¹10 and 11 shall remain inoperative until October 1, 2025,
38 but the Director of the Division of Consumer Affairs may take such
39 anticipatory action as may be necessary to effectuate the provisions
40 of this act, and section¹ 7 ¹10, and 11¹ shall take effect on the
41 180th day after the date of enactment.

[Second Reprint]

ASSEMBLY, No. 4755

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED SEPTEMBER 19, 2024

Sponsored by:

Assemblyman JOE DANIELSEN

District 17 (Middlesex and Somerset)

Assemblyman ALEX SAUICKIE

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblywoman HEATHER SIMMONS

District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

Assemblymen McGuckin, Azzariti Jr., Assemblywomen N.Munoz, Drulis, Assemblymen Spearman, DiMaio, Kanitra, Stanley, Assemblywoman McCoy, Assemblyman Inganamort, Assemblywoman Haider, Assemblymen Hutchison, Clifton, Assemblywoman Matsikoudis, Assemblymen Auth, Karabinchak, Marengo, Peterson, Sampson, Calabrese, Bailey, Assemblywomen Reynolds-Jackson, Park, Assemblyman Verrelli, Assemblywomen McCann Stamato, Flynn, Fantasia, Murphy, Collazos-Gill, Assemblyman Freiman, Assemblywomen Donlon and Lopez

SYNOPSIS

Upgrades, and in some circumstances provides for extended terms of imprisonment for, certain retail theft crimes, addresses gift card fraud, and authorizes new Attorney General initiatives to address organized retail theft.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on February 20, 2025, with amendments.

(Sponsorship Updated As Of: 2/27/2025)

1 AN ACT concerning retail theft, amending and supplementing
2 various parts of the statutory law, and making an appropriation.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 7 of P.L.1981, c.167 (C.2C:20-7.1) is amended to
8 read as follows:

9 7. Fencing. a. Possession of altered property. Any dealer in
10 property who knew or should have known that the identifying
11 features such as serial numbers and permanently affixed labels of
12 property in his possession have been removed or altered without the
13 consent of the manufacturer is guilty of possession of altered
14 property. It is a defense to a prosecution under this subsection that
15 a person lawfully possesses the usual indicia of ownership in
16 addition to mere possession.

17 b. (1) Dealing in stolen property. A person is guilty of dealing in
18 stolen property if he traffics in, or initiates, organizes, plans,
19 finances, directs, manages or supervises trafficking in stolen
20 property, including through the use of an online platform via any
21 electronic device or through a social media site. This paragraph
22 shall not apply to dealing in stolen property consisting of a
23 domestic companion animal, addressed in paragraph (2) of this
24 subsection.

25 (2) Dealing in stolen domestic companion animals. A person is
26 guilty of dealing in stolen domestic companion animals if he
27 trafficks in, or initiates, organizes, plans, finances, directs, manages
28 or supervises trafficking in stolen property consisting of a domestic
29 companion animal.

30 c. (1) For any violation of this section, other than dealing in
31 stolen domestic companion animals, the value of the property
32 involved in the violation shall be determined by the trier of fact for
33 the purpose of determining the grade of the offense, and the value
34 of the property involved in the violation may be aggregated in
35 determining the grade of the offense where the acts or conduct
36 constituting a violation were committed pursuant to one scheme or
37 course of conduct, whether from the same person or several
38 persons.

39 (2) A violation of this section for dealing in stolen domestic
40 companion animals constitutes a crime of the third degree.

41 d. It is an affirmative defense to a prosecution under this
42 section that the actor:

43 (1) Was unaware that the property or service was that of
44 another;

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AJU committee amendments adopted February 13, 2025.

²Assembly AAP committee amendments adopted February 20, 2025.

1 (2) Acted under an honest claim of right to the property or
 2 service involved or that he had a right to acquire or dispose of it as
 3 he did.

4 e. In addition to the presumptions contained in subsection b. of
 5 N.J.S.2C:20-7, the following presumptions are available in the
 6 prosecution for a fencing offense:

7 (1) Proof of the purchase or sale of property at a price
 8 substantially below its fair market value, unless satisfactorily
 9 explained, gives rise to an inference that the person buying or
 10 selling the property knew that it had been stolen;

11 (2) Proof of the purchase or sale of property by a dealer in that
 12 property, out of the regular course of business, or without the usual
 13 indicia of ownership other than mere possession, or the property or
 14 the job lot of which it is a part was bought, received, possessed or
 15 controlled in broken succession of title, so that it cannot be traced,
 16 by appropriate documents, in unbroken succession to the
 17 manufacturer, in all cases where the regular course of business
 18 reasonably indicates records of purchase, transfer or sale, unless
 19 satisfactorily explained, gives rise to an inference that the person
 20 buying or selling the property knew that it had been stolen; and

21 (3) Proof that a person buying or selling property of the sort
 22 received obtained such property without having ascertained by
 23 reasonable inquiry that the person from whom he obtained it had a
 24 legal right to possess or control it gives rise to an inference that
 25 such person knew that it had been stolen.

26 (cf: P.L.2017, c.156, s.1)

27
 28 2. (New section) a. ¹As used in P.L. _____, c. _____ (C. _____) (pending
 29 before the Legislature as this bill):

30 “Online platform” means any public-facing Internet website,
 31 Internet web application, or computer or mobile application, including
 32 a social networking website or publication.

33 “Sale” means any sale, transfer, exchange, barter, or offer for sale
 34 and distribution, in any manner or by any means whatsoever,
 35 including, but not limited to, via an online platform.

36 b.¹ A person is guilty of fostering the sale of stolen property, a
 37 disorderly persons offense, if the person ¹【:

38 (1) hosts¹ , acting alone or in concert with another person or
 39 persons,¹ advertises ¹【,】¹ or otherwise assists ¹, by any means,
 40 including through personal contact or through the use of an online
 41 platform or any other communications channel or medium,¹ in the sale
 42 of ¹【stolen goods, including through an online platform; and

43 (2) knows or reasonably should know that the property was stolen.
 44 The requisite knowledge is presumed in the case of a person who
 45 undertook a substantial and unjustifiable risk that the persons actions
 46 would result in the sale of stolen property】 property of another
 47 knowing that it has been stolen or reasonably believing that ²【is it】 it
 48 is² stolen¹.

1 ¹[b. As defined in this act:

2 “Online platform” means any public-facing Internet website,
3 Internet web application, or computer or mobile application, including
4 a social networking website or publication.

5 “Sale” means any sale, transfer, exchange, barter, or offer for sale
6 and distribution, in any manner or by any means whatsoever,
7 including, but not limited to, via an online platform.

8 “Stolen property” shall have the same meaning as defined pursuant
9 to N.J.S.2C:20-1.】

10 c. The following presumptions are available in the prosecution of
11 an offense under this section of fostering the sale of stolen property:

12 (1) Proof of the property being advertised for sale at a price
13 substantially below its fair market value, unless satisfactorily
14 explained, gives rise to an inference that the person advertising or
15 otherwise assisting in the sale of the property knew that it is stolen or
16 reasonably believed that the property is stolen; and

17 (2) Proof that a person advertised or otherwise assisted in the sale
18 of the property without having ascertained by reasonable inquiry that
19 the person offering the property for sale had a legal right to possess or
20 control it gives rise to an inference that such person knew that it is
21 stolen or reasonably believed that it is stolen.

22 d. Nothing in this section shall be construed to preclude or limit
23 the prosecution or conviction of any person for any other crime or
24 offense.¹

25

26 3. N.J.S.2C:12-1 is amended as follows:

27 2C:12-1. Assault. a. Simple assault. A person is guilty of assault if
28 the person:

29 (1) Attempts to cause or purposely, knowingly or recklessly causes
30 bodily injury to another; or

31 (2) Negligently causes bodily injury to another with a deadly
32 weapon; or

33 (3) Attempts by physical menace to put another in fear of
34 imminent serious bodily injury.

35 Simple assault is a disorderly persons offense unless committed in
36 a fight or scuffle entered into by mutual consent, in which case it is a
37 petty disorderly persons offense.

38 b. Aggravated assault. A person is guilty of aggravated assault if
39 the person:

40 (1) Attempts to cause serious bodily injury to another, or causes
41 injury purposely or knowingly or under circumstances manifesting
42 extreme indifference to the value of human life recklessly causes such
43 injury; or

44 (2) Attempts to cause or purposely or knowingly causes bodily
45 injury to another with a deadly weapon; or

46 (3) Recklessly causes bodily injury to another with a deadly
47 weapon; or

- 1 (4) Knowingly under circumstances manifesting extreme
2 indifference to the value of human life points a firearm, as defined in
3 subsection f. of N.J.S.2C:39-1, at or in the direction of another,
4 whether or not the actor believes it to be loaded; or
- 5 (5) Commits a simple assault as defined in paragraph (1), (2), or
6 (3) of subsection a. of this section upon:
- 7 (a) Any law enforcement officer acting in the performance of the
8 officer's duties while in uniform or exhibiting evidence of authority or
9 because of the officer's status as a law enforcement officer; or
- 10 (b) Any paid or volunteer firefighter acting in the performance of
11 the firefighter's duties while in uniform or otherwise clearly
12 identifiable as being engaged in the performance of the duties of a
13 firefighter; or
- 14 (c) Any person engaged in emergency first-aid or medical services
15 acting in the performance of the person's duties while in uniform or
16 otherwise clearly identifiable as being engaged in the performance of
17 emergency first-aid or medical services; or
- 18 (d) Any school board member, school administrator, teacher,
19 school bus driver, or other employee of a public or nonpublic school or
20 school board while clearly identifiable as being engaged in the
21 performance of the person's duties or because of the person's status as
22 a member or employee of a public or nonpublic school or school board
23 or any school bus driver employed by an operator under contract to a
24 public or nonpublic school or school board while clearly identifiable as
25 being engaged in the performance of the person's duties or because of
26 the person's status as a school bus driver; or
- 27 (e) Any employee of the Division of Child Protection and
28 Permanency while clearly identifiable as being engaged in the
29 performance of the employee's duties or because of the status as an
30 employee of the division; or
- 31 (f) Any justice of the Supreme Court, judge of the Superior Court,
32 judge of the Tax Court or municipal judge while clearly identifiable as
33 being engaged in the performance of judicial duties or because of the
34 status as a member of the judiciary; or
- 35 (g) Any operator of a motorbus or the operator's supervisor or any
36 employee of a rail passenger service while clearly identifiable as being
37 engaged in the performance of the person's duties or because of the
38 status as an operator of a motorbus or as the operator's supervisor or as
39 an employee of a rail passenger service; or
- 40 (h) Any Department of Corrections employee, county correctional
41 police officer, juvenile correctional police officer, State juvenile
42 facility employee, juvenile detention staff member, juvenile detention
43 officer, probation officer or any sheriff, undersheriff, or sheriff's
44 officer acting in the performance of the person's duties while in
45 uniform or exhibiting evidence of the person's authority or because of
46 the status as a Department of Corrections employee, county
47 correctional police officer, juvenile correctional police officer, State
48 juvenile facility employee, juvenile detention staff member, juvenile

1 detention officer, probation officer, sheriff, undersheriff, or sheriff's
2 officer; or

3 (i) Any employee, including any person employed under contract,
4 of a utility company as defined in section 2 of P.L.1971, c.224
5 (C.2A:42-86) or a cable television company subject to the provisions
6 of the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.)
7 while clearly identifiable as being engaged in the performance of the
8 employee's duties in regard to connecting, disconnecting, or repairing
9 or attempting to connect, disconnect, or repair any gas, electric, or
10 water utility, or cable television or telecommunication service; or

11 (j) Any health care worker employed by a licensed health care
12 facility to provide direct patient care, any health care professional
13 licensed or otherwise authorized pursuant to Title 26 or Title 45 of the
14 Revised Statutes to practice a health care profession, except a direct
15 care worker at a State or county psychiatric hospital or State
16 developmental center or veterans' memorial home, while clearly
17 identifiable as being engaged in the duties of providing direct patient
18 care or practicing the health care profession; or

19 (k) Any direct care worker at a State or county psychiatric hospital
20 or State developmental center or veterans' memorial home, while
21 clearly identifiable as being engaged in the duties of providing direct
22 patient care or practicing the health care profession, provided that the
23 actor is not a patient or resident at the facility who is classified by the
24 facility as having a mental illness or developmental disability; or

25 (l) Any employee of a 'store or other' retail mercantile
26 establishment ']. "Employee of a retail mercantile establishment"
27 means any person,]' while clearly identifiable as being engaged in the
28 performance of the person's duties '], engaged in the sale, display, or
29 offering for sale of consumer commodities and who is employed by
30 any place of business where merchandise is displayed, held, stored, or
31 sold or offered at retail to members of consuming public] . "Store or
32 other retail mercantile establishment" means the same as such term is
33 defined in N.J.S.2C:20-11. "Employee" means any person who
34 provides customer assistance, store management, visual
35 merchandising, loss prevention or security services, whether in
36 uniform or in plain clothes, or who acts as a cashier, salesperson, or
37 team associate or otherwise interacts with customers for or on behalf
38 of the store or other retail mercantile establishment'; or

39 (6) Causes bodily injury to another person while fleeing or
40 attempting to elude a law enforcement officer in violation of
41 subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in
42 violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any
43 other provision of law to the contrary, a person shall be strictly liable
44 for a violation of this paragraph upon proof of a violation of subsection
45 b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of
46 subsection c. of N.J.S.2C:20-10 which resulted in bodily injury to
47 another person; or

- 1 (7) Attempts to cause significant bodily injury to another or causes
2 significant bodily injury purposely or knowingly or, under
3 circumstances manifesting extreme indifference to the value of human
4 life recklessly causes such significant bodily injury; or
- 5 (8) Causes bodily injury by knowingly or purposely starting a fire
6 or causing an explosion in violation of N.J.S.2C:17-1 which results in
7 bodily injury to any emergency services personnel involved in fire
8 suppression activities, rendering emergency medical services resulting
9 from the fire or explosion or rescue operations, or rendering any
10 necessary assistance at the scene of the fire or explosion, including any
11 bodily injury sustained while responding to the scene of a reported fire
12 or explosion. For purposes of this paragraph, “emergency services
13 personnel” shall include, but not be limited to, any paid or volunteer
14 firefighter, any person engaged in emergency first-aid or medical
15 services and any law enforcement officer. Notwithstanding any other
16 provision of law to the contrary, a person shall be strictly liable for a
17 violation of this paragraph upon proof of a violation of N.J.S.2C:17-1
18 which resulted in bodily injury to any emergency services personnel;
19 or
- 20 (9) Knowingly, under circumstances manifesting extreme
21 indifference to the value of human life, points or displays a firearm, as
22 defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a law
23 enforcement officer; or
- 24 (10) Knowingly points, displays or uses an imitation firearm, as
25 defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a
26 law enforcement officer with the purpose to intimidate, threaten, or
27 attempt to put the officer in fear of bodily injury or for any unlawful
28 purpose; or
- 29 (11) Uses or activates a laser sighting system or device, or a
30 system or device which, in the manner used, would cause a reasonable
31 person to believe that it is a laser sighting system or device, against a
32 law enforcement officer acting in the performance of the officer’s
33 duties while in uniform or exhibiting evidence of the officer’s
34 authority. As used in this paragraph, “laser sighting system or device”
35 means any system or device that is integrated with or affixed to a
36 firearm and emits a laser light beam that is used to assist in the sight
37 alignment or aiming of the firearm; or
- 38 (12) Attempts to cause significant bodily injury or causes
39 significant bodily injury purposely or knowingly or, under
40 circumstances manifesting extreme indifference to the value of human
41 life, recklessly causes significant bodily injury to a person who, with
42 respect to the actor, meets the definition of a victim of domestic
43 violence, as defined in subsection d. of section 3 of P.L.1991, c.261
44 (C.2C:25-19); or
- 45 (13) Knowingly or, under circumstances manifesting extreme
46 indifference to the value of human life, recklessly obstructs the
47 breathing or blood circulation of a person who, with respect to the
48 actor, meets the definition of a victim of domestic violence, as defined
49 in subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-19), by

1 applying pressure on the throat or neck or blocking the nose or mouth
2 of such person, thereby causing or attempting to cause bodily injury.

3 Aggravated assault under paragraphs (1) and (6) of subsection b. of
4 this section is a crime of the second degree; under paragraphs (2), (7),
5 (9), and (10) of subsection b. of this section is a crime of the third
6 degree; under paragraphs (3) and (4) of subsection b. of this section is
7 a crime of the fourth degree; and under paragraph (5) of subsection b.
8 of this section is a crime of the third degree if the victim suffers bodily
9 injury, otherwise it is a crime of the fourth degree, except that any
10 aggravated assault under subparagraph (g) of paragraph (5) of
11 subsection b. of this section shall be a crime of the third degree.
12 Aggravated assault under paragraph (8) of subsection b. of this section
13 is a crime of the third degree if the victim suffers bodily injury; if the
14 victim suffers significant bodily injury or serious bodily injury it is a
15 crime of the second degree. Aggravated assault under paragraph (11)
16 of subsection b. of this section is a crime of the third degree.
17 Aggravated assault under paragraph (12) of subsection b. of this
18 section is a crime of the third degree but the presumption of non-
19 imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first
20 offense of a crime of the third degree shall not apply. Aggravated
21 assault under paragraph (13) of subsection b. of this section is a crime
22 of the second degree.

23 c. (1) A person is guilty of assault by auto or vessel when the
24 person drives a vehicle or vessel recklessly and causes either serious
25 bodily injury or bodily injury to another. Assault by auto or vessel is a
26 crime of the fourth degree if serious bodily injury results and is a
27 disorderly persons offense if bodily injury results. Proof that the
28 defendant was operating a hand-held wireless telephone while driving
29 a motor vehicle in violation of section 1 of P.L.2003, c.310 (C.39:4-
30 97.3) may give rise to an inference that the defendant was driving
31 recklessly.

32 (2) Assault by auto or vessel is a crime of the third degree if the
33 person drives the vehicle while in violation of R.S.39:4-50 or section 2
34 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily injury results and
35 is a crime of the fourth degree if the person drives the vehicle while in
36 violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a)
37 and bodily injury results.

38 (3) Assault by auto or vessel is a crime of the second degree if
39 serious bodily injury results from the defendant operating the auto or
40 vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981,
41 c.512 (C.39:4-50.4a) while:

42 (a) on any school property used for school purposes which is
43 owned by or leased to any elementary or secondary school or school
44 board, or within 1,000 feet of such school property;

45 (b) driving through a school crossing as defined in R.S.39:1-1 if
46 the municipality, by ordinance or resolution, has designated the school
47 crossing as such; or

1 (c) driving through a school crossing as defined in R.S.39:1-1
2 knowing that juveniles are present if the municipality has not
3 designated the school crossing as such by ordinance or resolution.

4 Assault by auto or vessel is a crime of the third degree if bodily
5 injury results from the defendant operating the auto or vessel in
6 violation of this paragraph.

7 A map or true copy of a map depicting the location and boundaries
8 of the area on or within 1,000 feet of any property used for school
9 purposes which is owned by or leased to any elementary or secondary
10 school or school board produced pursuant to section 1 of P.L.1987,
11 c.101 (C.2C:35-7) may be used in a prosecution under subparagraph
12 (a) of paragraph (3) of this subsection.

13 It shall be no defense to a prosecution for a violation of
14 subparagraph (a) or (b) of paragraph (3) of this subsection that the
15 defendant was unaware that the prohibited conduct took place while on
16 or within 1,000 feet of any school property or while driving through a
17 school crossing. Nor shall it be a defense to a prosecution under
18 subparagraph (a) or (b) of paragraph (3) of this subsection that no
19 juveniles were present on the school property or crossing zone at the
20 time of the offense or that the school was not in session.

21 (4) Assault by auto or vessel is a crime of the third degree if the
22 person purposely drives a vehicle in an aggressive manner directed at
23 another vehicle and serious bodily injury results and is a crime of the
24 fourth degree if the person purposely drives a vehicle in an aggressive
25 manner directed at another vehicle and bodily injury results. For
26 purposes of this paragraph, "driving a vehicle in an aggressive
27 manner" shall include, but is not limited to, unexpectedly altering the
28 speed of the vehicle, making improper or erratic traffic lane changes,
29 disregarding traffic control devices, failing to yield the right of way, or
30 following another vehicle too closely.

31 As used in this subsection, "vessel" means a means of conveyance
32 for travel on water and propelled otherwise than by muscular power.

33 d. A person who is employed by a facility as defined in section 2
34 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as
35 defined in paragraph (1) or (2) of subsection a. of this section upon an
36 institutionalized elderly person as defined in section 2 of P.L.1977,
37 c.239 (C.52:27G-2) is guilty of a crime of the fourth degree.

38 e. (Deleted by amendment, P.L.2001, c.443).

39 f. A person who commits a simple assault as defined in paragraph
40 (1), (2), or (3) of subsection a. of this section in the presence of a child
41 under 16 years of age at a school or community sponsored youth sports
42 event is guilty of a crime of the fourth degree. The defendant shall be
43 strictly liable upon proof that the offense occurred, in fact, in the
44 presence of a child under 16 years of age. It shall not be a defense that
45 the defendant did not know that the child was present or reasonably
46 believed that the child was 16 years of age or older. The provisions of
47 this subsection shall not be construed to create any liability on the part
48 of a participant in a youth sports event or to abrogate any immunity or
49 defense available to a participant in a youth sports event. As used in

1 this act, “school or community sponsored youth sports event” means a
2 competition, practice, or instructional event involving one or more
3 interscholastic sports teams or youth sports teams organized pursuant
4 to a nonprofit or similar charter or which are member teams in a youth
5 league organized by or affiliated with a county or municipal recreation
6 department and shall not include collegiate, semi-professional or
7 professional sporting events.

8 (cf: P.L.2021, c.352, s.1)

9

10 4. N.J.S.2C:20-11 is amended to read as follows:

11 a. Definitions. The following definitions apply to this section:

12 (1) “Shopping cart” means those push carts of the type or types
13 which are commonly provided by grocery stores, drug stores or other
14 retail mercantile establishments for the use of the public in
15 transporting commodities in stores and markets and, incidentally,
16 from the stores to a place outside the store;

17 (2) “Store or other retail mercantile establishment” means a place
18 where merchandise is displayed, held, stored or sold or offered to the
19 public for sale;

20 (3) “Merchandise” means any goods, chattels, foodstuffs or wares
21 of any type and description, regardless of the value thereof;

22 (4) “Merchant” means any owner or operator of any store or other
23 retail mercantile establishment, or any agent, servant, employee,
24 lessee, consignee, officer, director, franchisee or independent
25 contractor of such owner or proprietor;

26 (5) “Person” means any individual or individuals, including an
27 agent, servant or employee of a merchant where the facts of the
28 situation so require;

29 (6) “Conceal” means to conceal merchandise so that, although
30 there may be some notice of its presence, it is not visible through
31 ordinary observation;

32 (7) “Full retail value” means the merchant’s stated or advertised
33 price of the merchandise;

34 (8) “Premises of a store or retail mercantile establishment” means
35 and includes but is not limited to, the retail mercantile establishment;
36 any common use areas in shopping centers and all parking areas set
37 aside by a merchant or on behalf of a merchant for the parking of
38 vehicles for the convenience of the patrons of such retail mercantile
39 establishment;

40 (9) “Under-ring” means to cause the cash register or other sale
41 recording device to reflect less than the full retail value of the
42 merchandise;

43 (10) “Antishoplifting or inventory control device countermeasure”
44 means any item or device which is designed, manufactured, modified,
45 or altered to defeat any antishoplifting or inventory control device;

46 (11) “Organized retail theft enterprise” means any association of
47 two or more persons who engage in the conduct of or are associated
48 for the purpose of effectuating the transfer or sale of shoplifted
49 merchandise.

1 b. Shoplifting. Shoplifting shall consist of any one or more of the
2 following acts:

3 (1) For any person purposely to take possession of, carry away,
4 transfer or cause to be carried away or transferred, any merchandise
5 displayed, held, stored or offered for sale by any store or other retail
6 mercantile establishment with the intention of depriving the merchant
7 of the possession, use or benefit of such merchandise or converting the
8 same to the use of such person without paying to the merchant the full
9 retail value thereof.

10 (2) For any person purposely to conceal upon his person or
11 otherwise any merchandise offered for sale by any store or other retail
12 mercantile establishment with the intention of depriving the merchant
13 of the processes, use or benefit of such merchandise or converting the
14 same to the use of such person without paying to the merchant the
15 value thereof.

16 (3) For any person purposely to alter, transfer or remove any label,
17 price tag or marking indicia of value or any other markings which aid
18 in determining value affixed to any merchandise displayed, held,
19 stored or offered for sale by any store or other retail mercantile
20 establishment and to attempt to purchase such merchandise personally
21 or in consort with another at less than the full retail value with the
22 intention of depriving the merchant of all or some part of the value
23 thereof.

24 (4) For any person purposely to transfer any merchandise
25 displayed, held, stored or offered for sale by any store or other retail
26 merchandise establishment from the container in or on which the same
27 shall be displayed to any other container with intent to deprive the
28 merchant of all or some part of the retail value thereof.

29 (5) For any person purposely to under-ring with the intention of
30 depriving the merchant of the full retail value thereof.

31 (6) For any person purposely to remove a shopping cart from the
32 premises of a store or other retail mercantile establishment without the
33 consent of the merchant given at the time of such removal with the
34 intention of permanently depriving the merchant of the possession, use
35 or benefit of such cart.

36 c. Gradation. (1) Shoplifting constitutes a crime of the second
37 degree under subsection b. of this section if the full retail value of the
38 merchandise is \$75,000 or more, or the offense is committed in
39 furtherance of or in conjunction with an organized retail theft
40 enterprise and the full retail value of the merchandise is \$1,000 or
41 more.

42 (2) Shoplifting constitutes a crime of the third degree under
43 subsection b. of this section if the full retail value of the merchandise
44 exceeds \$500 but is less than \$75,000, or the offense is committed in
45 furtherance of or in conjunction with an organized retail theft
46 enterprise and the full retail value of the merchandise is less than
47 \$1,000.

1 (3) Shoplifting constitutes a crime of the fourth degree under
2 subsection b. of this section if the full retail value of the merchandise
3 is at least \$200 but does not exceed \$500.

4 (4) Shoplifting is a disorderly persons offense under subsection b.
5 of this section if the full retail value of the merchandise is less than
6 \$200.

7 The ¹total¹ value of the merchandise involved in a violation or
8 ¹in¹ multiple violations of this section may be aggregated ¹within the
9 previous one-year period¹ in determining the grade of the offense
10 where the acts or conduct constituting a violation were committed
11 pursuant to one scheme or course of conduct, whether from the same
12 person or several persons ¹and regardless of the time period over
13 which the scheme or course of conduct took place¹, or were committed
14 in furtherance of or in conjunction with an organized retail theft
15 enterprise.

16 Additionally, notwithstanding the term of imprisonment provided
17 in N.J.S.2C:43-6 or 2C:43-8, any person convicted of a shoplifting
18 offense shall be sentenced to perform community service as follows:
19 for a first offense, at least ten days of community service; for a second
20 offense, at least 15 days of community service; and for a third or
21 subsequent offense, a maximum of 25 days of community service and
22 any person convicted of a third or subsequent shoplifting offense shall
23 serve a minimum term of imprisonment of not less than 90 days.

24 d. Presumptions. Any person purposely concealing unpurchased
25 merchandise of any store or other retail mercantile establishment,
26 either on the premises or outside the premises of such store or other
27 retail mercantile establishment, shall be prima facie presumed to have
28 so concealed such merchandise with the intention of depriving the
29 merchant of the possession, use or benefit of such merchandise
30 without paying the full retail value thereof, and the finding of such
31 merchandise concealed upon the person or among the belongings of
32 such person shall be prima facie evidence of purposeful concealment;
33 and if such person conceals, or causes to be concealed, such
34 merchandise upon the person or among the belongings of another, the
35 finding of the same shall also be prima facie evidence of willful
36 concealment on the part of the person so concealing such merchandise.

37 e. A law enforcement officer, or a special officer, or a merchant,
38 who has probable cause for believing that a person has willfully
39 concealed unpurchased merchandise and that he can recover the
40 merchandise by taking the person into custody, may, for the purpose of
41 attempting to effect recovery thereof, take the person into custody and
42 detain him in a reasonable manner for not more than a reasonable time,
43 and the taking into custody by a law enforcement officer or special
44 officer or merchant shall not render such person criminally or civilly
45 liable in any manner or to any extent whatsoever.

46 Any law enforcement officer may arrest without warrant any
47 person he has probable cause for believing has committed the offense
48 of shoplifting as defined in this section.

1 A merchant who causes the arrest of a person for shoplifting, as
2 provided for in this section, shall not be criminally or civilly liable in
3 any manner or to any extent whatsoever where the merchant has
4 probable cause for believing that the person arrested committed the
5 offense of shoplifting.

6 f. Any person who possesses or uses any antishoplifting or
7 inventory control device countermeasure within any store or other
8 retail mercantile establishment is guilty of a disorderly persons
9 offense.

10 (cf: P.L.2006, c.56, s.1)

11
12 ¹5. Section 2 of P.L.2006, c.56 (C.2C:20-11.2) is amended to
13 read as follows:

14 2. A person is a leader of an organized retail theft enterprise if
15 he conspires with others as an organizer, supervisor, financier or
16 manager, to engage for profit in a scheme or course of conduct to
17 effectuate the transfer or sale of shoplifted merchandise. Leader of
18 organized retail theft enterprise is a crime of the ~~second~~ first
19 degree. Notwithstanding the provisions of subsection a. of
20 N.J.S.2C:43-3, the court may impose a fine not to exceed \$250,000
21 or five times the retail value of the merchandise seized at the time
22 of the arrest, whichever is greater.

23 Notwithstanding the provisions of N.J.S.2C:1-8, a conviction of
24 leader of organized retail theft enterprise shall not merge with the
25 conviction for any offense which is the object of the conspiracy.
26 Nothing contained in this section shall prohibit the court from
27 imposing an extended term pursuant to N.J.S.2C:43-7; nor shall this
28 section be construed in any way to preclude or limit the prosecution
29 or conviction of any person for conspiracy under N.J.S.2C:5-2, or
30 any prosecution or conviction for any other offense.

31 It shall not be necessary in any prosecution under this section for
32 the State to prove that any intended profit was actually realized. The
33 trier of fact may infer that a particular scheme or course of conduct
34 was undertaken for profit from all of the attending circumstances,
35 including but not limited to the number of persons involved in the
36 scheme or course of conduct, the actor's net worth and his
37 expenditures in relation to his legitimate sources of income, the
38 amount of merchandise involved, or the amount of cash or currency
39 involved.

40 It shall not be a defense to a prosecution under this section that
41 any shoplifted merchandise was brought into or transported in this
42 State solely for ultimate distribution in another jurisdiction; nor
43 shall it be a defense that any profit was intended to be made in
44 another jurisdiction.

45 (cf: P.L.2006, c.56, s.2)¹

46
47 ¹6. 5.¹ (New section) a. Upon request of the prosecutor, a
48 person who has been convicted of shoplifting pursuant to

1 N.J.S.2C:20-11, receiving stolen property pursuant to N.J.S.2C:20-
2 7, leader of organized retail theft enterprise pursuant to section 2 of
3 P.L.2006, c.56 (C.2C:20-11.2); or theft as defined in chapter 20 of
4 Title 2C of the New Jersey Statutes that involves the stealing of
5 merchandise from a retail mercantile establishment shall be
6 sentenced to an extended term of imprisonment pursuant to
7 N.J.S.2C:43-7 if the person has previously been convicted on two or
8 more prior and separate occasions, regardless of the dates of the
9 convictions, in accordance with the provisions of subsection b. of
10 this section, for a violation of paragraphs (1) or (2) of subsection c.
11 of N.J.S.2C:20-11, N.J.S.2C:20-7, section 2 of P.L.2006, c.56
12 (C.2C:20-11.2), or theft as defined in chapter 20 of Title 2C of the
13 New Jersey Statutes involving the stealing of merchandise, or a
14 crime under any statute of the United States, this State, or any other
15 state for a crime that is substantially equivalent to a violation of
16 shoplifting, leader of organized retail theft enterprise, or theft
17 involving merchandise.

18 b. The provisions of this section shall not apply unless the prior
19 convictions are for crimes committed on separate occasions and the
20 crime for which the defendant is being sentenced was committed
21 either:

22 (1) within 10 years of the date of the defendant's last release
23 from confinement for the commission of any crime; or

24 (2) within 10 years of the date of the commission of the most
25 recent of the crimes enumerated in subsection a. of this section for
26 which the defendant has a prior conviction.

27 c. Prior convictions shall be defined and proven in accordance
28 with N.J.S.2C:44-4.

29 d. The court shall not impose a sentence of imprisonment
30 pursuant to this section unless the ground therefor has been
31 established at a hearing after the conviction of the defendant and on
32 written notice to the defendant of the ground proposed. The
33 defendant shall have the right to hear and controvert the evidence
34 against him and to offer evidence upon the issue.

35
36 ¹~~7.~~ 6.¹ (New section) a. The Attorney General shall ¹~~],~~ in
37 consultation with the Director of the Division of Criminal Justice,
38 ~~establish~~ undertake such steps as the Attorney General deems
39 appropriate to promote the effective investigation, prosecution, and
40 deterrence of organized retail theft in this State, which may include
41 establishing¹ a retail theft unit ¹, task force,¹ or other appropriate
42 office ¹or initiative¹ in the Department of Law and Public Safety to
43 combat organized retail theft ¹~~in this State. The Attorney General~~
44 ~~shall~~ or the implementation of a Statewide policy to direct and
45 coordinate State and local law enforcement efforts to¹ investigate
46 ¹~~], coordinate, and supply resources to~~ and¹ prosecute organized
47 retail theft.

1 b. (1). In a manner prescribed by the Attorney General, a
2 county prosecutor, law enforcement officer, special officer, or retail
3 merchant may notify the Division of Criminal Justice ¹ or other
4 entity within the Department of Law and Public Safety designated
5 by the Attorney General to receive notice,¹ of allegations that a
6 crime of retail theft was committed.

7 (2) In a manner prescribed by the Attorney General, a county
8 prosecutor shall notify the Division of Criminal Justice ¹ or other
9 entity within the Department of Law and Public Safety designated
10 by the Attorney General to receive notice,¹ that a crime of retail
11 theft was allegedly committed by a defendant if:

12 (a) there is probable cause that the defendant has committed two
13 or more acts of retail theft in the State;

14 (b) there is probable cause that the defendant has committed one
15 or more acts of retail theft in this State and one or more acts of
16 retail theft in another state; or

17 (c) the defendant has previously been convicted of retail theft in
18 this State or another state.

19 c. ¹**[The]** In addition to any other authority provided under the
20 law, the¹ Division of Criminal Justice shall have the authority to:

21 (1) investigate and, if warranted, prosecute cases concerning
22 acts of retail theft; and

23 (2) assist county prosecutors in the investigation and prosecution
24 of acts of retail theft.

25 d. As used in this section, “retail theft” shall include the crimes
26 of shoplifting pursuant to N.J.S.2C:20-11; leader of organized retail
27 theft enterprise pursuant to section 2 of P.L.2006, c.56 (C.2C:20-
28 11.2); or theft as defined in chapter 20 of Title 2C of the New
29 Jersey Statutes that involves the stealing of merchandise.

30
31 ¹**[8.] 7.**¹ Section 19 of P.L.1987, c.76 (C.54:52-9) is amended
32 to read as follows:

33 19. a. A person is guilty of a crime ²**[of the third degree]**² if he
34 fails to pay or turn over when due any tax, fee, penalty or interest or
35 any part thereof required to be paid pursuant to the provisions of the
36 State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., as amended
37 and supplemented, or any State tax law, with the intent to evade,
38 avoid or otherwise not make timely payment or deposit of any tax,
39 fee, penalty or interest or any part thereof. The crime shall be of
40 the second degree if ¹**[a person fails to pay or turn over when due**
41 **any]** any portion of the¹ tax, fee, penalty or interest or any part
42 thereof required to be paid ¹**[in connection with the person being a**
43 **leader of an organized retail theft enterprise]** or turned over was
44 accrued through conduct committed¹ in violation ¹of¹ section 2 of
45 P.L.2006, c.56 (C.2C:20-11.2) ¹, otherwise it shall be a crime of the
46 third degree¹.

1 b. The fact that any payment was made with a subsequently
2 dishonored negotiable instrument shall constitute prima facie
3 evidence that the actor failed to pay within the meaning of
4 subsection a. of this section, and the trier of fact may draw a
5 permissive inference therefrom that the actor did not intend to make
6 the payment.

7 (cf: P.L.1987, c.76, s.19)

8

9 ¹**[9.] 8.**¹ Section 25 of P.L.1987, c.76 (C.54:52-15) is
10 amended to read as follows:

11 25. A person is guilty of a crime of the third degree if ¹**[he]**¹,
12 after having collected or withheld taxes as required by any State tax
13 law, whether or not ¹**[he]** the person¹ is authorized, licensed, or
14 registered to collect or withhold taxes, ¹the person¹ purposely fails
15 to turn over the taxes to the Director of the Division of Taxation in
16 the manner and at the time prescribed by law. The crime shall be of
17 the second degree if the amount of the tax collected or withheld is
18 \$75,000.00 or more, or if the ¹**[person is a leader of]** taxes the
19 person failed to turn over to the Director of the Division of Taxation
20 were collected or withheld as part of¹ an organized retail theft
21 enterprise in violation of section 2 of P.L.2006, c.56 (C.2C:20-
22 11.2).

23 (cf: P.L.1987, c.76, s.25)

24

25 ¹**[10.] 9.**¹ Section 1 of P.L.2021, c.431 (C.56:8-110.1) is
26 amended to read as follows:

27 1. a. Every retail mercantile establishment in this State that
28 displays ¹**[open-loop gift cards or closed-loop]**¹ gift cards for sale
29 shall train employees on how to identify and respond to ¹**[open-**
30 **loop gift card or closed-loop]**¹ gift card fraud. A retail mercantile
31 establishment shall conduct the training in accordance with
32 guidelines issued pursuant to section 2 of **[this act]** P.L.2021, c.431
33 (C.56:8-110.2).

34 b. A retail mercantile establishment that violates the provisions
35 of this section or section 10 of P.L. , c. (C.) (pending
36 before the Legislature as this bill) shall be subject to a civil penalty
37 of \$1,000, which may be collected and enforced by the Director of
38 the Division of Consumer Affairs in the Department of Law and
39 Public Safety in a summary proceeding pursuant to the “Penalty
40 Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).
41 The Superior Court shall have jurisdiction of proceedings for the
42 enforcement of the penalty provided by this section.

43 A violation of this section shall not be considered an unlawful
44 practice in violation of P.L.1960, c.39 (C.56:8-1 et seq.).

1 c. As used in ¹**[this]**¹ **[section]** P.L.2021, c.431, ²(C.56:8-110.1
2 et seq.),² and section 10 of P.L. , c. (C.) (pending before the
3 Legislature as this bill):

4 ¹**“Closed-loop gift card” means a gift card, code or device that**
5 **is:**

6 (1) issued to a consumer on a prepaid basis primarily for
7 personal, family, or household purposes in a specified amount,
8 regardless of whether that amount may be increased or reloaded in
9 exchange for payment; and

10 (2) redeemable on presentation by a consumer at a single retail
11 mercantile establishment or a group of affiliated retail mercantile
12 establishments.

13 “Gift card” means a tangible device, whereon is embedded or
14 encoded in an electronic or other format a value issued in exchange
15 for payment, which promises to provide to the bearer merchandise
16 of equal value to the remaining balance of the device. **】**

17 “Gift card” means a tangible device, whereon is embedded or
18 encoded in an electronic or other format a value issued in exchange
19 for payment, which promises to provide to the bearer merchandise
20 of equal value to the remaining balance of the device. A “gift card”
21 shall not include a stored value reloadable card as defined in
22 subsection k. of section 5 of P.L.2010, c.25 (C.46:30B-42.1).¹

23 “Merchandise” means any objects, wares, goods, commodities,
24 services, or anything offered, directly or indirectly, to the public for
25 sale.

26 ¹**“Open-Loop Gift Card” means a card, code, or device that is:**

27 (1) issued to a consumer on a prepaid basis primarily for
28 personal, family, or household purposes in a specified amount,
29 regardless of whether that amount may be increased or reloaded in
30 exchange for payment;

31 (2) payment card network branded; and

32 (3) redeemable on presentation at multiple unaffiliated merchants
33 for goods or services within the payment card network or usable at
34 an automated teller machine.】¹

35 “Retail mercantile establishment” means any place of business
36 where merchandise is exposed or offered for sale at retail to
37 members of the consuming public.

38 “Third-Party Gift Card Reseller” means a merchant who, without
39 authorization from or affiliation with the business entity issuing
40 ¹**[an open- or closed-loop]** ¹**a** ¹**gift card, is engaged in the business**
41 **of:**

42 (1) buying ¹**[an open- or closed-loop]**¹ gift cards on behalf of
43 consumers; or

44 (2) reselling ¹**[an open- or closed-loop]**¹ gift cards to consumers.

45 (cf: P.L.2021, c.431, s.1)

- 1 ~~11.~~ 10. (New section) a. The Director of the Division of
2 Consumer Affairs in the Department of Law and Public Safety shall
3 create and ~~provide~~ make available on its Internet website¹ a
4 notice to customers of¹ retail mercantile establishments which
5 shall include, but not be limited to:
- 6 (1) the risk of gift card scams; and
7 (2) available assistance, including from the Division of
8 Consumer Affairs, a consumer may seek if the consumer suspects
9 they may be a victim of a gift card scam.
- 10 b. (1) ~~Except as provided in subsection e. of this section, a~~
11 A¹ retail mercantile establishment may not knowingly sell ~~an~~
12 open-loop gift card or closed-loop¹ a gift card to a consumer
13 unless the retail mercantile establishment conspicuously displays a
14 notice in a form as prescribed by the Director of the Division of
15 Consumer Affairs in accordance with subsection a. of this section.
- 16 (2) For in-person sales, the notice shall be placed at or near the
17 physical location where the ~~open-loop~~¹ gift card is displayed for
18 sale or where the ~~sale of the open-loop~~¹ gift card ~~is sold~~¹ sales
19 transaction takes place¹.
- 20 (3) For online sales of ~~open-loop~~¹ gift cards, the notice shall
21 be displayed on the webpage where the gift card is offered for sale
22 or before the sale is finalized.
- 23 c. ~~For the sale of an open-loop~~ Except as otherwise
24 provided in subsection d. of this section, a retail mercantile
25 establishment may not display or sell a¹ gift card ~~pursuant to~~
26 paragraph (2) of subsection b., the gift card shall be enclosed in
27 packaging that ~~unless~~¹:
- 28 (1) the gift card or its packaging includes in a manner visible to
29 potential purchasers when on display a warning that states “Do not
30 sell or purchase if the gift card or its packaging has been broken or
31 indicates tampering” or that uses substantially similar language;
- 32 (2) the gift card, if enclosed in packaging,¹ is sealed in a manner
33 that is not easily opened¹, removed, or replaced¹ without signs of
34 tampering;
- 35 ~~(2) except as provided in paragraph (3) of this subsection,~~
36 ~~conceals~~¹ and
- 37 (3) regardless of whether the gift card is or is not enclosed in
38 packaging,¹ all CVV number, pin number¹;
- 39 (3) displays an activation code, bar code, or other activation data
40 only if the packaging used is more secure than it otherwise would
41 be if the data were fully concealed; and
- 42 (4) includes a warning that states the following or uses language
43 substantially similar to the following: “Do not sell or purchase if
44 packaging has been broken or indicates tampering.” ~~are either fully~~
45 concealed or covered or, only if the gift card is enclosed in
46 packaging that is designed to make the gift card more secure than
47 full concealment or covering otherwise would, are partially

1 concealed or covered.¹】 regardless of whether the gift card is or is
2 not enclosed in packaging, all visible numbers such as a card
3 number, CVV number, or a PIN number that can be used for
4 balance inquiries or manual entry redemption are either fully
5 concealed or covered or otherwise made unavailable prior to sale or,
6 only if the gift card is enclosed in packaging that is designed to
7 make the gift card more secure than full concealment or covering
8 otherwise would, are partially concealed or covered.²

9 d. ¹【For the sale of a closed-loop gift card, the gift card shall
10 be enclosed in packaging that:

11 (1) conceals or covers, in a manner that is not easily removed or
12 replaced without signs of tampering, all numeric codes specific to
13 the redemption of the gift card; or

14 (2) if made more secure through partial concealment or covering
15 than full concealment or covering pursuant to paragraph (1) of this
16 subsection, partially conceals or covers, in a manner that is not
17 easily removed or replaced without signs of tampering, all numeric
18 codes specific to redemption of the gift card; and

19 (3) includes a warning that states the following or uses language
20 substantially similar to the following: “Do not sell or purchase if
21 packaging has been broken or indicates tampering.”

22 e.¹ A retail mercantile establishment may ¹display or¹ sell ¹【an
23 open- or closed loop】 a¹ gift card that ¹【is not enclosed in secured
24 packaging pursuant to】 does not conform to the requirements of
25 paragraphs (2) and (3) of¹ subsection c. ¹【or d.】¹ of this section if:

26 (1) the gift card is a chip-enabled, numberless card that is
27 activated by a consumer after registering the card on the card
28 issuer’s website; ¹【or】¹

29 (2) the gift card is:

30 (a) sold exclusively by a retail mercantile establishment for use
31 only at the retail mercantile establishment or a group of affiliated
32 retail mercantile establishments for use at the retail mercantile
33 establishments of the affiliated establishments; and

34 (b) is secured in a physical location within the retail mercantile
35 establishment that is accessible only by an employee¹, or

36 (3) the gift card or its packaging:

37 (a) incorporates technology that is designed to prevent activation
38 if the gift card or its packaging has been subjected to tampering; or

39 (b) incorporates technology that is designed to detect and prevent
40 unauthorized redemption¹.

41 ¹【f.】¹ e.¹ (1) When a third-party gift card reseller buys or sells
42 ¹【an open-loop】 a¹ gift card as part of a transaction occurring in
43 this State, the reseller shall record and, for at least three years,
44 maintain a copy of the following information as applicable:

45 (a) the date of the transaction;

46 (b) the name of the person who conducted the transaction;

47 (c) the name, age, and address of the seller of the gift card;

1 (d) the seller's and consumer's driver's license number or
2 identification card number;

3 (e) a description of the purchased gift card, including, but not
4 limited to, the retailer for which the gift card is intended for use and
5 the gift card number;

6 (f) the specific amount issued on the gift card;

7 (g) the transaction price;

8 (h) the signature of the consumer.

9 (2) The information recorded and maintained pursuant to this
10 section shall be chronologically written in ink or logged into a
11 secure database, software system, or other similar technology
12 platform.

13 (3) Except as provided in paragraph (4) of this subsection,
14 recorded information may not be destroyed, altered, or erased.

15 (4) A handwritten correction may be made to an entry of
16 information by drawing a line of ink through the entry in a manner
17 that retains legibility.

18 (5) Information recorded pursuant to this subsection shall be
19 open to inspection by any duly authorized law enforcement officer
20 in this State during the ordinary business hours of the third-party
21 gift card reseller or at other reasonable time.

22 f. A third-party gift card reseller, including an agent or
23 employee of the third-party gift card reseller may not:

24 (1) fail to make an entry of or falsify, destroy, or remove any
25 information required to be recorded and maintained pursuant to this
26 section;

27 (2) refuse to allow any duly authorized law enforcement officer
28 in this State to inspect a record of information or ²["open- or closed-
29 loop"] the² gift cards in the reseller's possession; or

30 (3) fail to maintain a record in pursuant to this section.

31 g. Upon ¹["the filing of an official report to"] request of¹ a law
32 enforcement agency ¹["by any person alleging to be a victim"]
33 conducting an investigation into allegations¹ of theft of one or more
34 ¹["open- or closed-loop"]¹ gift cards ¹["with an aggregate value
35 exceed \$500, law enforcement may request that"],¹ the issuer of the
36 gift cards or the issuer's agents ¹shall¹ preserve and provide law
37 enforcement ¹with¹ all relevant evidence ¹so requested¹.

38

39 ¹["12."] ²["11."] There is appropriated from the General Fund to
40 the Department of Law and Public Safety the sum of \$1,000,000 to
41 effectuate the provisions of this act.]²

42

43 ¹["13."] ²["12."] ¹11.² This act shall take effect immediately, except
44 that sections ²9 and² ¹10 ²["and 11"]² shall remain inoperative until
45 October 1, 2025, but the Director of the Division of Consumer Affairs
46 may take such anticipatory action as may be necessary to effectuate
47 the provisions ²["of this act, and section"] ¹7]² ¹["10, and 11"]¹ ²of those

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1 sections, and section 6² shall take effect on the 180th day after the date
2 of enactment.

RACIAL AND ETHNIC COMMUNITY CRIMINAL JUSTICE AND PUBLIC SAFETY IMPACT STATEMENT

[Second Reprint]

ASSEMBLY, No. 4755 STATE OF NEW JERSEY

SUMMARY

U

Synopsis: Upgrades, and in some circumstances provides for extended terms of imprisonment for, certain retail theft crimes, addresses gift card fraud, and authorizes new Attorney General initiatives to address organized retail theft.*

INTRODUCTION

The Office of Legislative Services does not develop or maintain source data concerning the criminal justice system in the State. The Office of Legislative Services makes reasonable efforts to obtain data from Executive Branch Departments and the Judiciary. This statement may reflect information provided by the United States Census Bureau, the Administrative Office of the Courts within the Judiciary, the New Jersey Department of Corrections, the New Jersey Office of the Attorney General, and the Juvenile Justice Commission in the New Jersey Department of Law and Public Safety. The publicly available data and the data provided by the responding departments and agencies contained within this statement allows for a general overview of the frequencies of events of interest (i.e. arrests, charges, and convictions) for racial and ethnic minorities for the crimes identified herein. This statement does not provide for an in-depth analysis of that data.

Additional data concerning recidivism rates and incarceration rates for the specific crimes addressed within this statement sorted by race and ethnicity is needed in order to make a conclusion on the impacts on racial and ethnic minorities. Additional data concerning the deterrent effects of similar laws of this type is needed to determine the impact on community criminal justice and public safety. It should be noted that the data needed may not currently be collected by the responding departments or agencies or may not exist.¹

BILL DESCRIPTION

Assembly Bill No.4755 makes various changes to State law related to retail theft. The bill upgrades certain crimes related to retail theft, permits certain defendants to be sentenced to extended terms of imprisonment, and establishes a retail theft unit in the Department of Law and Public Safety (DLPS).

¹ *This racial and ethnic community criminal justice and public safety impact statement has been produced by the Office of Legislative Services pursuant to section 2 of P.L.2017, c.286 (C.52:11-57.1). Although impact statements are considered a tool for policymaking, the Office of Legislative Services does not take a policy position in preparing a racial and ethnic community criminal justice and public safety impact statement. The role of the Office of Legislative Services is to gather and present data for legislators to review. This statement may reflect information provided by the United States Census Bureau, Office of Juvenile Justice and Delinquency Prevention in the United States Department of Justice, New Jersey Department of Corrections, and Juvenile Justice Commission in the New Jersey Department of Law and Public Safety.*

Assault

The bill establishes that it is aggravated assault to assault an employee of a store or other retail mercantile establishment.

Aggravated assault of an employee of a retail mercantile establishment is a crime of the third degree if the victim suffers bodily injury; otherwise, it is a crime of the fourth degree. A third degree crime is punishable by three to five years imprisonment, a fine of up to \$15,000, or both. A fourth degree crime is punishable by up to 18 months imprisonment, a fine of up to \$10,000, or both.

Tax Evasion

The bill establishes a second degree crime if any portion of a tax, fee, penalty, or interest, or any part thereof required to be paid or turned over was accrued through conduct as a leader of an organized retail theft enterprise, otherwise it is a crime of the third degree. Relatedly, the bill clarifies that a person is guilty of the second degree crime if the taxes the person failed to turn over to the Director of the Division of Taxation were collected or withheld as part of an organized retail theft enterprise.

A second degree crime is punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

Persistent Offender

The bill provides that a person may be sentenced to an extended term of imprisonment for repeat convictions related to retail theft.

Under the bill, a person is a persistent offender if the person has previously been convicted on two or more prior and separate occasions of receiving stolen property, shoplifting, or being a leader of an organized retail theft enterprise; or theft that involves the stealing of merchandise, regardless of the dates of the convictions. A persistent offender may be sentenced to an extended term, upon motion of the prosecutor, if the prior conviction was for a crime committed on a separate occasion and the crime for which the person is being sentenced was committed either: (1) within 10 years of the date of the defendant's last release from confinement for the commission of any crime; or (2) within 10 years of the date of the commission of the most recent violation of a crime established in the bill for which the defendant has a prior conviction.

Retail Theft Aggregation

The bill provides the value of the merchandise involved in a violation or in multiple violations may be aggregated. The bill provides that the value of merchandise involved in a violation of the shoplifting statute may be aggregated in determining the grade of the offense where the acts or conduct constituting a violation were committed pursuant to one scheme or course of conduct, whether from the same person or several persons regardless of the time period over which the scheme or course of conduct took place, or were committed in furtherance of or in conjunction with an organized retail theft enterprise.

Fencing

The bill updates the fencing statute, section 7 of P.L.1981, c.167 (C.2C:20-7.1), to clarify that the statute also applies to online sales of stolen goods.

Fostering Stolen Property

The bill also separately establishes the offense of fostering the sale of stolen property. The offense is a disorderly persons offense.

A person commits an offense under the bill when the person, acting alone or in concert with another person or persons, advertises or otherwise assists, by any means, including through personal contact or through the use of an online platform or any other communications channel or

medium in the sale of property of another knowing that it has been stolen or reasonably believing that it is stolen.

The bill establishes two presumptions that are available in the prosecution of an offense of fostering the sale of stolen property. First, proof of the property being advertised for sale at a price substantially below its fair market value, unless satisfactorily explained, gives rise to an inference that the person advertising or otherwise assisting in the sale of the property knew that it is stolen or reasonably believed that the property is stolen; and second, proof that a person advertised or otherwise assisted in the sale of the property without having ascertained by reasonable inquiry that the person offering the property for sale had a legal right to possess or control it gives rise to an inference that such person knew that it is stolen or reasonably believed that it is stolen.

A disorderly persons offense is punishable by up to six months imprisonment, a fine of up to \$1,000, or both.

Gift Card Fraud

The bill imposes certain packaging and consumer notice requirements for the sale of gift cards and requires the Division of Consumer Affairs (DCA) in DLPS to create a notice related to gift card fraud for dissemination in locations which sell gift cards.

The bill prohibits a retail mercantile establishment from knowingly selling gift cards to a consumer unless the establishment conspicuously displays the notice provided by the DCA and the packaging of the gift card meets certain requirements in the bill. The bill requires that gift cards, if enclosed in packaging, be sealed in a manner that is not easily opened, removed, or replaced without signs of tampering, and requires that all activation codes or bar codes be concealed. The bill allows a retail mercantile establishment to sell gift cards that do not conform to the packaging requirements if the gift card is chip-enabled and activated only after the consumer registers the card on the card issuer's website, or the gift card is sold only for use at that retail mercantile establishment and the card inventory is secured, or the gift card incorporates certain anti-tampering or anti-fraud technology.

Further, the bill establishes requirements as it relates to third-party gift card resellers. The bill defines "third-party gift card reseller" as a merchant who, without authorization from or affiliation with the business entity issuing the gift card, is engaged in the business of: (1) buying gift cards on behalf of consumers; or (2) reselling gift cards to consumers. These resellers are subject to certain record maintenance requirements.

A retail mercantile establishment that violates the provisions of section 1 of P.L.2021, c.431 (C.56:8-110.1) or the provisions of the bill related to gift card fraud is subject to a civil penalty of \$1,000.

Organized Retail Theft Unit

Finally, the bill requires the Attorney General to undertake steps as the Attorney General deems appropriate to promote the effective investigation, prosecution, and deterrence of organized retail theft in this State, which may include establishing a unit, task force, or other appropriate office or initiative to combat organized retail theft. The bill also provides that the Attorney General may implement a statewide policy to direct and coordinate State and local law enforcement efforts to investigate and prosecute organized retail theft.

The unit, and the Division of Criminal Justice, will have the authority to (1) investigate and, if warranted, prosecute cases concerning acts of retail theft; and (2) assist county prosecutors in the investigation and prosecution of acts of retail theft.

Federal and State Census Information²

	Population	Caucasian	African American	Native American/Alaska Native	Asian	Native Hawaiian/ Other Pacific Islander	Hispanic	Two or More Races/Other
National Census Estimate	331,450,000	59.3%	13.6%	1.3%	6.1%	0.3%	18.9%	2.9%
State Census Estimate	9,289,000	53.5%	15.3%	0.7%	10.3%	0.1%	21.5%	2.4%

Federal and State Inmate Population Data

	Population	Caucasian	African American	Native American/Alaska Native	Asian	Native Hawaiian/ Other Pacific Islander	Hispanic	Two or More Races/Other
Actual Federal Adult Inmate Population ³	156,241	56.9%	38.8%	2.8%	1.5%	N/A	29.2%	N/A
Actual State Adult Inmate Population ⁴	12,978	22%	60.8%	0.0%	1%	N/A	17%	N/A

State Census and State Inmate Population Data

	Population	Caucasian	African American	Native American/Alaska Native	Asian	Native Hawaiian/ Other Pacific Islander	Hispanic	Two or More Races/Other
State Census Estimate	9,289,000	53.5%	15.3%	0.7%	10.3%	0.1%	21.5%	2.4%
Actual State Adult Inmate Population ⁵	12,978	22%	60.8%	0.0%	1%	N/A	17%	N/A

² Publicly available data obtained from the federal census for national and State populations as of April 1, 2020.

³ Publicly available data of federally sentenced persons in custody of the Federal Bureau of Prisons, as of June 1, 2024.

⁴ Publicly available data produced by the New Jersey Department of Corrections concerning the State inmate population on January 1, 2024. It has been reported by the New Jersey Department of Corrections that the Fiscal Year 2024 average daily population was 12,490. However, that number has not been sorted by race or ethnicity.

⁵ Publicly available data produced by the New Jersey Department of Corrections concerning the State inmate population on January 1, 2024. It has been reported by the New Jersey Department of Corrections that the Fiscal Year 2024 average daily population was 12,490. However, that number has not been sorted by race or ethnicity.

DATA PROVIDED BY THE EXECUTIVE BRANCH

The following data was provided, as a part of the submission, from the Office of the Attorney General:

The below displays the number of arrest events with any paragraph of the enumerated charges below displayed by race/ethnicity for all arrests between January 1, 2017 to December 31, 2024.

<i>STATUTE</i>	<i>STATUTE DESCRIPTION</i>	<i>DEGREE</i>	<i>WHITE (INCL. HISPANIC ORIGIN)</i>	<i>BLACK</i>	<i>ASIAN/PAC. ISLANDER</i>	<i>AM. INDIAN/ALASKA NATIVE</i>	<i>UNKNOWN/NOT PROVIDED</i>
2C:20-7.1A	FENCING-VALUE LESS THAN \$200	1st, 2nd, 3rd, 4th	66	64	0	0	1
2C:20-7.1B	FENCING - DEALING IN STOLEN PROPERTY	1st, 2nd, 3rd, 4th	5	1	0	0	0
2C:20-7.1B(1)	FENCING-DEALING IN STOLEN PROPERTY VALUE \$500-\$74999	1st, 2nd, 3rd, 4th	100	60	1	0	6
2C:20-11.2	LEADER OF ORGANIZED RETAIL THEFT ENTERPRISE	2nd	17	20	0	0	1

The below displays the number of Unique Persons Convicted of any paragraph of the enumerated charges below displayed by race/ethnicity for all arrests between January 1, 2017 to December 31, 2024.

<i>STATUTE</i>	<i>STATUTE DESCRIPTION</i>	<i>DEGREE</i>	<i>WHITE (INCL. HISPANIC ORIGIN)</i>	<i>BLACK</i>	<i>ASIAN/PAC. ISLANDER</i>	<i>AM. INDIAN/ALASKA NATIVE</i>	<i>UNKNOWN/NOT PROVIDED</i>
2C:20-7.1A	FENCING-VALUE LESS THAN \$200	1st, 2nd, 3rd, 4th	10	8	0	0	0
2C:20-7.1B	FENCING - DEALING IN STOLEN PROPERTY	1st, 2nd, 3rd, 4th	1	0	0	0	0
2C:20-7.1B(1)	FENCING-DEALING IN STOLEN PROPERTY VALUE \$500-\$74999	1st, 2nd, 3rd, 4th	3	2	0	0	0

2C:20-11.2	LEADER OF	0	1	0	0	0
	ORGANIZED					
	RETAIL THE FT					
	ENTERPRISE 2nd					

The following response was provided by the Juvenile Justice Commission:

The Juvenile Justice Commission (JJC) does not maintain or have direct access to detailed data on youth arrests, prosecutions, or adjudications (i.e. convictions). The JJC is not a prosecutorial agency. The JJC does not keep racial and ethnic data segregated by crimes for arrests, prosecutions, or adjudications for the juveniles committed to its care.

The Department of Corrections was unable to provide data within the timeframe, established by the Legislative Services Commission, for the production of the Racial and Ethnic Community Justice and Public Safety Impact Statement. However, the Department of Corrections has made available to the public statistical data concerning the State inmate population categorized by race and ethnicity for 2024, which are reflected in the charts on page 4, and offenders by base offense for 2022, 2023, and 2024 in the following charts:

Offenders by Base Offense for 2022

Base Offense	Total		Male Offenders in Other Facilities		Youth Offenders		Adult Diagnostic Treatment Center (ADTC)		Edna Mahan		Halfway Houses, County Jails, St. Francis Hospital	
	#	%	#	%	#	%	#	%	#	%	#	%
TOTAL OFFENDERS	12,492	100%	9,442	100%	1,139	100%	410	100%	408	100%	1,093	100%
Property Offenses	526	4%	375	4%	57	5%	0	0%	36	9%	58	5%

Offenders by Base Offense for 2023

Base Offense	Total		Male Offenders in Other Facilities		Youth Offenders		Adult Diagnostic Treatment Center (ADTC)		Edna Mahan		Halfway Houses, County Jails, St. Francis Hospital	
	#	%	#	%	#	%	#	%	#	%	#	%
TOTAL OFFENDERS	13,196	100%	9,133	100%	1,174	100%	402	100%	356	100%	2,131	100%
Property Offenses	525	4%	324	4%	55	5%	0	0%	31	9%	115	5%

Offenders by Base Offense for 2024

Base Offense	Total		Male Incarcerated Persons		Edna Mahan		Residential Community Release Program (RCRP), County Jails, Central Medical Unit (CHR)		Interstate Corrections Compact	
	#	%	#	%	#	%	#	%	#	%
Total Offenders	12,978	100%	11,176	100%	386	100%	1,140	100%	276	100%
Property Offenses	472	4%	382	3%	38	10%	39	4%	13	5%

Note: Property offenses include burglary, arson, theft, forgery, embezzlement, and receiving / possessing stolen property

DATA PROVIDED BY THE JUDICIARY

The Administrative Office of the Courts was unable to provide data within the timeframe, established by the Legislative Services Commission, for the production of the Racial and Ethnic Community Justice and Public Safety Impact Statement.

ASSEMBLY PUBLIC SAFETY AND PREPAREDNESS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4755

STATE OF NEW JERSEY

DATED: NOVEMBER 14, 2024

The Assembly Public Safety and Preparedness Committee reports favorably Assembly Bill No. 4755.

As reported by the committee, this bill makes various changes to State law related to retail theft. The bill upgrades certain crimes related to retail theft, permits certain defendants to be sentenced to extended terms of imprisonment, and establishes a retail theft unit in the Department of Law and Public Safety (DLPS).

ASSAULT

The bill establishes that it is aggravated assault to assault an “employee of a retail mercantile establishment.” This is defined as any person engaged in the sale, display, or offering for sale of consumer commodities and who is employed by any place of business where merchandise is displayed, held, stored, or sold or offered at retail to members of consuming public.

Aggravated assault of an employee of a retail mercantile establishment is a crime of the third degree if the victim suffers bodily injury; otherwise, it is a crime of the fourth degree. A third degree crime is punishable by three to five years imprisonment, a fine of up to \$15,000, or both. A fourth degree crime is punishable by up to 18 months imprisonment, a fine of up to \$10,000, or both.

LEADER OF ORGANIZED RETAIL THEFT ENTERPRISE

The bill upgrades the crime of “leader of organized retail theft enterprise” to a crime of the first degree.

A first degree crime is punishable by 10 to 20 years imprisonment, a fine of up to \$200,000, or both.

TAX EVASION

The bill increases the penalty for failure to pay taxes in connection with being the leader of an organized retail theft enterprise to a second degree crime.

A second degree crime is punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

PERSISTENT OFFENDER

The bill provides that a person may be sentenced to an extended term of imprisonment for repeat convictions related to retail theft.

Under the bill, a person is a persistent offender if the person has previously been convicted on two or more prior and separate occasions of receiving stolen property, shoplifting, or being a leader of organized retail theft enterprise; or theft that involves the stealing of merchandise, regardless of the dates of the convictions. A persistent offender may be sentenced to an extended term, upon motion of the prosecutor, if the prior conviction was for a crime committed on a separate occasion and the crime for which the person is being sentenced was committed either: (1) within 10 years of the date of the defendant's last release from confinement for the commission of any crime; or (2) within 10 years of the date of the commission of the most recent violation of a crime established in the bill for which the defendant has a prior conviction.

RETAIL THEFT AGGREGATION

The bill provides a one-year look back period for aggregation of shoplifting violations. The bill provides that the value of merchandise involved in a violation of the shoplifting statute may be aggregated within the previous one-year period in determining the grade of the offense where the acts or conduct constituting a violation were committed pursuant to one scheme or course of conduct, whether from the same person or several persons, or were committed in furtherance of or in conjunction with an organized retail theft enterprise.

FENCING

The bill updates the fencing statute, section 7 of P.L.1981, c.167 (C.2C:20-7.1), to clarify that the statute also applies to online sales of stolen goods.

FOSTERING STOLEN PROPERTY

The bill also separately establishes the offense of fostering the sale of stolen property. The offense is a disorderly persons offense.

A person commits an offense under the bill when: (1) the person hosts, advertises, or otherwise assists the sale of stolen goods, including on an Internet website; and (2) the person knows or reasonably should know that the property was stolen.

The requisite knowledge is presumed in the case of a person who undertook a substantial and unjustifiable risk that the person's actions would result in the sale of stolen property.

A disorderly persons offense is punishable by up to six months imprisonment, a fine of up to \$1,000, or both.

GIFT CARD FRAUD

The bill imposes certain packaging requirements for the sale of open and closed-loop gift cards and requires the Division of Consumer Affairs (DCA) in the Department of Law and Public Safety to create a notice related to gift card fraud for dissemination in locations which sell gift cards.

The bill defines “closed-loop gift card” as a gift card, code or device that is: (1) issued to a consumer on a prepaid basis primarily for personal, family, or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment; and (2) redeemable on presentation by a consumer at a single retail mercantile establishment or a group of affiliated retail mercantile establishments. Further, the bill defines “open-loop gift card” as a card, code, or device that is: (1) issued to a consumer on a prepaid basis primarily for personal, family, or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment; (2) payment card network branded; and (3) redeemable on presentation at multiple unaffiliated merchants for goods or services within the payment card network or usable at an automated teller machine.

The bill prohibits a retail mercantile establish from knowingly selling an open- or closed-loop gift card to a consumer unless the establishment conspicuously displays the notice provided by the DCA and the packaging of the gift card meets certain requirements in the bill.

Further, the bill establishes requirements as it relates to third-party gift card resellers. The bill defines “third-party gift card reseller” as a merchant who, without authorization from or affiliation with the business entity issuing an open- or closed-loop gift card, is engaged in the business of: (1) buying open- or closed-loop gift cards on behalf of consumers; or (2) reselling open- or closed-loop gift cards to consumers. These resellers are subject to certain record maintenance requirements.

A retail mercantile establishment that violates the provisions of section 1 of P.L.2021, c.431 (C.56:8-110.1) or the provisions of the bill related to open- or closed-loop gift card fraud is subject to a civil penalty of \$1,000.

ORGANIZED RETAIL THEFT UNIT

Finally, the bill requires the Attorney General, in consultation with the Director of the Division of Criminal Justice, to establish a unit or other appropriate office to combat organized retail theft. The unit, and the Division of Criminal Justice, will have the authority to (1) investigate and, if warranted, prosecute cases concerning acts of retail theft; and (2) assist county prosecutors in the investigation and prosecution of acts of retail theft.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4755

STATE OF NEW JERSEY

DATED: FEBRUARY 13, 2025

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 4755.

As amended and reported, this bill makes various changes to State law related to retail theft. The bill upgrades certain crimes related to retail theft, permits certain defendants to be sentenced to extended terms of imprisonment, and establishes a retail theft unit in the Department of Law and Public Safety (DLPS).

ASSAULT

As amended, the bill establishes that it is aggravated assault to assault an employee of a store or other retail mercantile establishment.

Aggravated assault of an employee of a retail mercantile establishment is a crime of the third degree if the victim suffers bodily injury; otherwise, it is a crime of the fourth degree. A third degree crime is punishable by three to five years imprisonment, a fine of up to \$15,000, or both. A fourth degree crime is punishable by up to 18 months imprisonment, a fine of up to \$10,000, or both.

TAX EVASION

As amended, the bill establishes a second degree crime if any portion of a tax, fee, penalty, or interest, or any part thereof required to be paid or turned over was accrued through conduct as a leader of an organized retail theft enterprise, otherwise it is a crime of the third degree. Relatedly, as amended, the bill clarifies that a person is guilty of the second degree crime if the taxes the person failed to turn over to the Director of the Division of Taxation were collected or withheld as part of an organized retail theft enterprise.

A second degree crime is punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

PERSISTENT OFFENDER

The bill provides that a person may be sentenced to an extended term of imprisonment for repeat convictions related to retail theft.

Under the bill, a person is a persistent offender if the person has previously been convicted on two or more prior and separate occasions of receiving stolen property, shoplifting, or being a leader of organized retail theft enterprise; or theft that involves the stealing of merchandise, regardless of the dates of the convictions. A persistent

offender may be sentenced to an extended term, upon motion of the prosecutor, if the prior conviction was for a crime committed on a separate occasion and the crime for which the person is being sentenced was committed either: (1) within 10 years of the date of the defendant's last release from confinement for the commission of any crime; or (2) within 10 years of the date of the commission of the most recent violation of a crime established in the bill for which the defendant has a prior conviction.

RETAIL THEFT AGGREGATION

As amended, the bill provides the value of the merchandise involved in a violation or in multiple violations may be aggregated. As amended, the bill provides that the value of merchandise involved in a violation of the shoplifting statute may be aggregated in determining the grade of the offense where the acts or conduct constituting a violation were committed pursuant to one scheme or course of conduct, whether from the same person or several persons regardless of the time period over which the scheme or course of conduct took place, or were committed in furtherance of or in conjunction with an organized retail theft enterprise.

FENCING

The bill updates the fencing statute, section 7 of P.L.1981, c.167 (C.2C:20-7.1), to clarify that the statute also applies to online sales of stolen goods.

FOSTERING STOLEN PROPERTY

The bill also separately establishes the offense of fostering the sale of stolen property. The offense is a disorderly persons offense.

As amended, a person commits an offense under the bill when the person, acting alone or in concert with another person or persons, advertises or otherwise assists, by any means, including through personal contact or through the use of an online platform or any other communications channel or medium in the sale of property of another knowing that it has been stolen or reasonably believing that it is stolen.

As amended, the bill establishes two presumptions that are available in the prosecution of an offense of fostering the sale of stolen property. First, proof of the property being advertised for sale at a price substantially below its fair market value, unless satisfactorily explained, gives rise to an inference that the person advertising or otherwise assisting in the sale of the property knew that it is stolen or reasonably believed that the property is stolen; and second, proof that a person advertised or otherwise assisted in the sale of the property without having ascertained by reasonable inquiry that the person offering the property for sale had a legal right to possess or control it

gives rise to an inference that such person knew that it is stolen or reasonably believed that it is stolen.

A disorderly persons offense is punishable by up to six months imprisonment, a fine of up to \$1,000, or both.

GIFT CARD FRAUD

As amended, the bill imposes certain packaging and consumer notice requirements for the sale of gift cards and requires the Division of Consumer Affairs (DCA) in DLPS to create a notice related to gift card fraud for dissemination in locations which sell gift cards.

The bill prohibits a retail mercantile establishment from knowingly selling gift cards to a consumer unless the establishment conspicuously displays the notice provided by the DCA and the packaging of the gift card meets certain requirements in the bill. As amended, the bill requires that gift cards, if enclosed in packaging, be sealed in a manner that is not easily opened, removed, or replaced without signs of tampering, and requires that all activation codes or bar codes be concealed. As amended, the bill allows a retail mercantile establishment to sell gift cards that do not conform to the packaging requirements if the gift card is chip-enabled and activated only after the consumer registers the card on the card issuer's website, or the gift card is sold only for use at that retail mercantile establishment and the card inventory is secured, or the gift card incorporates certain anti-tampering or anti-fraud technology.

Further, the bill establishes requirements as it relates to third-party gift card resellers. The bill defines "third-party gift card reseller" as a merchant who, without authorization from or affiliation with the business entity issuing the gift card, is engaged in the business of: (1) buying gift cards on behalf of consumers; or (2) reselling gift cards to consumers. These resellers are subject to certain record maintenance requirements.

A retail mercantile establishment that violates the provisions of section 1 of P.L.2021, c.431 (C.56:8-110.1) or the provisions of the bill related to gift card fraud is subject to a civil penalty of \$1,000.

ORGANIZED RETAIL THEFT UNIT

Finally, as amended, the bill requires the Attorney General to undertake steps as the Attorney General deems appropriate to promote the effective investigation, prosecution, and deterrence of organized retail theft in this State, which may include establishing a unit, task force, or other appropriate office or initiative to combat organized retail theft. As amended, the bill also provides that the Attorney General may implement a statewide policy to direct and coordinate State and local law enforcement efforts to investigate and prosecute organized retail theft.

The unit, and the Division of Criminal Justice, will have the authority to (1) investigate and, if warranted, prosecute cases

concerning acts of retail theft; and (2) assist county prosecutors in the investigation and prosecution of acts of retail theft.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) clarify the components of the crime of fostering the sale of stolen property and establishes presumptions available in the prosecution of the crime;

(2) clarify the components of aggravated assault of an employee of a store or other retail mercantile establishment under the assault statute;

(3) remove section 5 of the bill related to the upgrading of the crime of leader of an organized retail theft enterprise;

(4) clarify that the aggregation of value of merchandise involved in a violation or in multiple violations can occur regardless of the time period over which the scheme or course of conduct took place;

(5) permit the Attorney General to undertake steps to promote the investigation, prosecution, and deterrence of organized retail theft in the State, which may include establishing a task force and creating a statewide initiative for State and local law enforcement;

(6) clarify the components of the second degree crime for withholding taxes as a leader of an organized retail theft enterprise or as part of an organized retail theft enterprise;

(7) require the Division of Consumer Affairs to provide notice on its Internet website to customers of the risk of gift card scams;

(8) clarify the provisions concerning gift card packaging and security requirements for retail sellers;

(9) remove the distinction between open-loop and closed-loop gift cards;

(10) change the effective date of sections 10 and 11 to make those sections inoperable until October 1, 2025 and to permit the Division of Consumer Affairs to take anticipatory action; and

(11) make minor technical changes.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 4755

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 20, 2025

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 4755 (1R).

As amended and reported, this bill makes various changes to State law related to retail theft. The bill upgrades certain crimes related to retail theft, permits certain defendants to be sentenced to extended terms of imprisonment, and establishes a retail theft unit in the Department of Law and Public Safety (DLPS).

ASSAULT

As amended, the bill establishes that it is aggravated assault to assault an employee of a store or other retail mercantile establishment.

Aggravated assault of an employee of a retail mercantile establishment is a crime of the third degree if the victim suffers bodily injury; otherwise, it is a crime of the fourth degree. A third degree crime is punishable by three to five years imprisonment, a fine of up to \$15,000, or both. A fourth degree crime is punishable by up to 18 months imprisonment, a fine of up to \$10,000, or both.

TAX EVASION

As amended, the bill establishes a second degree crime if any portion of a tax, fee, penalty, or interest, or any part thereof required to be paid or turned over was accrued through conduct as a leader of an organized retail theft enterprise, otherwise it is a crime of the third degree. Relatedly, as amended, the bill clarifies that a person is guilty of the second degree crime if the taxes the person failed to turn over to the Director of the Division of Taxation were collected or withheld as part of an organized retail theft enterprise.

A second degree crime is punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

PERSISTENT OFFENDER

The bill provides that a person may be sentenced to an extended term of imprisonment for repeat convictions related to retail theft.

Under the bill, a person is a persistent offender if the person has previously been convicted on two or more prior and separate occasions of receiving stolen property, shoplifting, or being a leader of an organized retail theft enterprise; or theft that involves the stealing of merchandise, regardless of the dates of the convictions. A persistent offender may be sentenced to an extended term, upon motion of the prosecutor, if the prior conviction was for a crime committed on a separate occasion and the crime for which the person is being sentenced was committed either: (1) within 10 years of the date of the defendant's last release from confinement for the commission of any crime; or (2) within 10 years of the date of the commission of the most recent violation of a crime established in the bill for which the defendant has a prior conviction.

RETAIL THEFT AGGREGATION

As amended, the bill provides the value of the merchandise involved in a violation or in multiple violations may be aggregated. As amended, the bill provides that the value of merchandise involved in a violation of the shoplifting statute may be aggregated in determining the grade of the offense where the acts or conduct constituting a violation were committed pursuant to one scheme or course of conduct, whether from the same person or several persons regardless of the time period over which the scheme or course of conduct took place, or were committed in furtherance of or in conjunction with an organized retail theft enterprise.

FENCING

The bill updates the fencing statute, section 7 of P.L.1981, c.167 (C.2C:20-7.1), to clarify that the statute also applies to online sales of stolen goods.

FOSTERING STOLEN PROPERTY

The bill also separately establishes the offense of fostering the sale of stolen property. The offense is a disorderly persons offense.

As amended, a person commits an offense under the bill when the person, acting alone or in concert with another person or persons, advertises or otherwise assists, by any means, including through personal contact or through the use of an online platform or any other communications channel or medium in the sale of property of another knowing that it has been stolen or reasonably believing that it is stolen.

As amended, the bill establishes two presumptions that are available in the prosecution of an offense of fostering the sale of stolen property. First, proof of the property being advertised for sale at a price substantially below its fair market value, unless satisfactorily explained, gives rise to an inference that the person advertising or otherwise assisting in the sale of the property knew that it is stolen or

reasonably believed that the property is stolen; and second, proof that a person advertised or otherwise assisted in the sale of the property without having ascertained by reasonable inquiry that the person offering the property for sale had a legal right to possess or control it gives rise to an inference that such person knew that it is stolen or reasonably believed that it is stolen.

A disorderly persons offense is punishable by up to six months imprisonment, a fine of up to \$1,000, or both.

GIFT CARD FRAUD

As amended, the bill imposes certain packaging and consumer notice requirements for the sale of gift cards and requires the Division of Consumer Affairs (DCA) in DLPS to create a notice related to gift card fraud for dissemination in locations which sell gift cards.

The bill prohibits a retail mercantile establishment from knowingly selling gift cards to a consumer unless the establishment conspicuously displays the notice provided by the DCA and the packaging of the gift card meets certain requirements in the bill. As amended, the bill requires that gift cards, if enclosed in packaging, be sealed in a manner that is not easily opened, removed, or replaced without signs of tampering, and requires that all activation codes or bar codes be concealed. As amended, the bill allows a retail mercantile establishment to sell gift cards that do not conform to the packaging requirements if the gift card is chip-enabled and activated only after the consumer registers the card on the card issuer's website, or the gift card is sold only for use at that retail mercantile establishment and the card inventory is secured, or the gift card incorporates certain anti-tampering or anti-fraud technology.

Further, the bill establishes requirements as it relates to third-party gift card resellers. The bill defines "third-party gift card reseller" as a merchant who, without authorization from or affiliation with the business entity issuing the gift card, is engaged in the business of: (1) buying gift cards on behalf of consumers; or (2) reselling gift cards to consumers. These resellers are subject to certain record maintenance requirements.

A retail mercantile establishment that violates the provisions of section 1 of P.L.2021, c.431 (C.56:8-110.1) or the provisions of the bill related to gift card fraud is subject to a civil penalty of \$1,000.

ORGANIZED RETAIL THEFT UNIT

Finally, as amended, the bill requires the Attorney General to undertake steps as the Attorney General deems appropriate to promote the effective investigation, prosecution, and deterrence of organized retail theft in this State, which may include establishing a unit, task force, or other appropriate office or initiative to combat organized retail theft. As amended, the bill also provides that the Attorney General may implement a statewide policy to direct and coordinate

State and local law enforcement efforts to investigate and prosecute organized retail theft.

The unit, and the Division of Criminal Justice, will have the authority to (1) investigate and, if warranted, prosecute cases concerning acts of retail theft; and (2) assist county prosecutors in the investigation and prosecution of acts of retail theft.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- Remove all references to “open- or closed-loop gift cards”;
- Clarify that the definitions that apply to gift card fraud violations also apply to the Consumer Fraud Act;
- Clarify the provisions concerning gift card packaging and security requirements for retail sellers;
- Remove the appropriation to the Department of Law and Public Safety;
- Change the effective date of sections 9 and 10, instead of sections 10 and 11, to make those sections inoperable until October 1, 2025;
- Change the effective date of section 6, instead of section 7, to make that section take effect on the 180th day after the date of enactment; and
- Make technical corrections.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that establishing and upgrading certain crimes related to retail theft and sentencing certain defendants to extended prison terms may result in an indeterminate annual increase in State and local expenditures and revenues. The OLS lacks sufficient information to quantify the fiscal impact, as it is not possible to estimate the number of crimes likely to be committed under the provisions of this bill or how many persistent offenders will be sentenced to extended prison terms.

The OLS finds that the following State and local agencies may incur caseload and expenditure increases: a) the Department of Law and Public Safety may have to prosecute additional cases; b) county prosecutors may also have to prosecute additional cases; c) the Judiciary may have to adjudicate additional complaints and monitor additional probationers; d) the Office of the Public Defender may have to represent additional low income defendants; e) the Department of Corrections may have to house and care for additional offenders for routine and extended prison sentences; and f) the State Parole Board may have to supervise the return to society of additional offenders. In addition, the Department of Law and Public Safety may establish a special unit or task force to combat retail theft.

The OLS notes that the State may receive indeterminate revenues from regular and enhanced fines imposed on individuals convicted of

these crimes; however, the State's ability to collect fines has historically been limited.

The bill establishes the offense of fostering the sale of stolen property as a disorderly persons offense. Annual local expenditures and revenues are likely to increase as disorderly persons offenses are adjudicated in municipal courts and defendants are sentenced to county jails. Generally, a presumption of non-incarceration applies to first time offenders. Annual municipal revenue would likely increase due to an increase in court filing fees and penalties from these disorderly persons cases.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4755

STATE OF NEW JERSEY 221st LEGISLATURE

DATED: FEBRUARY 24, 2025

SUMMARY

- Synopsis:** Concerns retail theft, establishes retail theft unit, and appropriates \$1 million.
- Type of Impact:** Annual State and local expenditure and revenue increases.
- Agencies Affected:** The Judiciary; Department of Law and Public Safety; Department of Corrections; State Parole Board; Office of the Public Defender; Counties; Municipalities.

Office of Legislative Services Estimate

Annual Fiscal Impact	
State Expenditure Increase	Indeterminate
State Revenue Increase	Indeterminate
Local Expenditure Increase	Indeterminate
Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that establishing and upgrading certain crimes related to retail theft and sentencing certain defendants to extended prison terms may result in an indeterminate annual increase in State and local expenditures and revenues. The OLS lacks sufficient information to quantify the fiscal impact, as it is not possible to estimate the number of crimes likely to be committed under the provisions of this bill or how many persistent offenders will be sentenced to extended prison terms.
- The OLS finds that the following State and local agencies may incur caseload and expenditure increases: a) the Department of Law and Public Safety may have to prosecute additional cases; b) county prosecutors may also have to prosecute additional cases; c) the Judiciary may have to adjudicate additional complaints and monitor additional probationers; d) the Office of the Public Defender may have to represent additional low income defendants; e) the Department of Corrections may have to house and care for additional offenders for routine and extended prison sentences; and f) the State Parole Board may have to supervise the return to society of

additional offenders. In addition, the Department of Law and Public Safety may establish a special unit or task force to combat retail theft.

- The OLS notes that the State may receive indeterminate revenues from regular and enhanced fines imposed on individuals convicted of these crimes; however, the State's ability to collect fines has historically been limited.
- The bill establishes the offense of fostering the sale of stolen property as a disorderly persons offense. Annual local expenditures and revenues are likely to increase as disorderly persons offenses are adjudicated in municipal courts and defendants are sentenced to county jails. Generally, a presumption of non-incarceration applies to first time offenders. Annual municipal revenue would likely increase due to an increase in court filing fees and penalties from these disorderly persons cases.

BILL DESCRIPTION

The bill establishes that it is aggravated assault to assault an employee of a store or other retail mercantile establishment, which is a crime of the third degree if the victim suffers bodily injury; otherwise, it is a crime of the fourth degree. A crime of the third degree is punishable by three to five years imprisonment, a fine of up to \$15,000, or both. A crime of the fourth degree is punishable by up to 18 months imprisonment, a fine of up to \$10,000, or both.

The bill establishes a crime of the second degree if any portion of a tax, fee, penalty, or interest required to be paid was accrued through conduct as a leader of an organized retail theft enterprise, otherwise it is a crime of the third degree. Relatedly, the bill clarifies that a person is guilty of a crime of the second degree if the taxes the person failed to turn over to the Division of Taxation were collected or withheld as part of an organized retail theft enterprise. A crime of the second degree is punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

The bill provides that a person may be sentenced to an extended term of imprisonment for repeat convictions related to retail theft. A person is a persistent offender if the person has previously been convicted on two or more prior and separate occasions of receiving stolen property, shoplifting, or being a leader of organized retail theft enterprise, or theft that involves the stealing of merchandise, regardless of the dates of the convictions. A persistent offender may be sentenced to an extended prison term, upon motion of the prosecutor, if the prior conviction was for a crime committed on a separate occasion and the crime for which the person is being sentenced was committed either: (1) within 10 years of the date of the defendant's last release from confinement for the commission of any crime; or (2) within 10 years of the date of the commission of the most recent violation of a crime established in the bill for which the defendant has a prior conviction.

The bill provides the value of the merchandise involved in a violation or in multiple violations may be aggregated in determining the grade of the offense regardless of the time-period over which the scheme or course of conduct took place, or were committed in furtherance of or in conjunction with an organized retail theft enterprise.

The bill updates the fencing statute to clarify that the statute also applies to online sales of stolen goods. The bill also separately establishes the offense of fostering the sale of stolen property, which is a disorderly persons offense. A disorderly persons offense is punishable by up to six months imprisonment, a fine of up to \$1,000, or both.

The bill imposes certain packaging and consumer notice requirements for the sale of gift cards and requires the Division of Consumer Affairs in the Department of Law and Public Safety to create a notice related to gift card fraud for dissemination in locations that sell gift cards.

The bill also establishes requirements related to third-party gift card resellers. These resellers are subject to certain record maintenance requirements.

Finally, the bill requires the Office of the Attorney General to undertake steps as deemed appropriate to promote the effective investigation, prosecution, and deterrence of organized retail theft in this State, which may include establishing a unit, task force, or other appropriate office or initiative to combat organized retail theft. The bill appropriates \$1 million to the Department of Law and Public Safety to effectuate the provisions of this bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that establishing and upgrading certain crimes related to retail theft and sentencing certain defendants to extended prison terms may result in an indeterminate annual increase in State and local expenditures and revenues. The OLS lacks sufficient information to quantify the fiscal impact, as it is not possible to estimate the number of crimes likely to be committed under the provisions of this bill or how many persistent offenders will be sentenced to extended prison terms. Generally, a presumption of non-incarceration applies to first time offenders of crimes of the fourth degree and third degree.

The bill appropriates \$1 million to the Department of Law and Public Safety to undertake appropriate steps for the deterrence of organized retail theft, which may include establishing a unit or task force for the investigation and prosecution of such crimes in the State.

Among other provisions that could result in incarceration, the bill also provides that a person may be sentenced to an extended term of imprisonment for repeat convictions related to retail theft. As of January 1, 2024, the State prison facilities had a total of 472 individuals incarcerated for property offenses, which include burglary, arson, theft, forgery, embezzlement, and receiving or possessing stolen property. The Department of Corrections does not provide data separated by offense. This number also does not account for the aggravated assault of an employee at a retail mercantile establishment under the provisions of this bill, which may be covered under the “violent offenses” category presented in department’s 2024 Population Characteristics Report. The OLS notes that to the extent the bill results in additional incarcerations, the Department of Corrections would incur those extra costs. Based on information provided by the department, the FY 2023 average annual cost for housing, ensuring security, and providing services to an incarcerated individual was \$75,574, with an average daily cost of \$207.

The OLS finds that expenditures are likely to increase at the local level since disorderly persons offenses are adjudicated in municipal courts and defendants are sentenced to county jails. According to information provided by the Administrative Office of the Courts, the median daily cost to house an inmate in a county jail is \$228. Annual municipal revenue would also likely increase due to an increase in court filing fees and penalties from these disorderly persons cases.

Section: Judiciary

*Analyst: Anuja Pande Joshi
Senior Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 4755

STATE OF NEW JERSEY 221st LEGISLATURE

DATED: FEBRUARY 27, 2025

SUMMARY

- Synopsis:** Upgrades, and in some circumstances provides for extended terms of imprisonment for, certain retail theft crimes, addresses gift card fraud, and authorizes new Attorney General initiatives to address organized retail theft.
- Type of Impact:** Annual State and local expenditure and revenue increases.
- Agencies Affected:** The Judiciary; Department of Law and Public Safety; Department of Corrections; State Parole Board; Office of the Public Defender; Counties; Municipalities.

Office of Legislative Services Estimate

Annual Fiscal Impact	
State Expenditure Increase	Indeterminate
State Revenue Increase	Indeterminate
Local Expenditure Increase	Indeterminate
Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that establishing and upgrading certain crimes related to retail theft and sentencing certain defendants to extended prison terms may result in an indeterminate annual increase in State and local expenditures and revenues. The OLS lacks sufficient information to quantify the fiscal impact, as it is not possible to estimate the number of crimes likely to be committed under the provisions of this bill or how many persistent offenders will be sentenced to extended prison terms.
- The OLS finds that the following State and local agencies may incur caseload and expenditure increases: a) the Department of Law and Public Safety may have to prosecute additional cases; b) county prosecutors may also have to prosecute additional cases; c) the Judiciary may have to adjudicate additional complaints and monitor additional probationers; d) the Office of the Public Defender may have to represent additional low income defendants; e) the Department of Corrections may have to house and care for additional offenders for routine and extended

prison sentences; and f) the State Parole Board may have to supervise the return to society of additional offenders. In addition, the Department of Law and Public Safety may establish a special unit or task force to combat retail theft.

- The OLS notes that the State may receive indeterminate revenues from regular and enhanced fines imposed on individuals convicted of these crimes; however, the State's ability to collect fines has historically been limited.
- The bill establishes the offense of fostering the sale of stolen property as a disorderly persons offense. Annual local expenditures and revenues are likely to increase as disorderly persons offenses are adjudicated in municipal courts and defendants are sentenced to county jails. Generally, a presumption of non-incarceration applies to first time offenders in these cases. Annual municipal revenue would likely increase due to an increase in court filing fees and penalties from these disorderly persons cases.

BILL DESCRIPTION

This bill makes various changes to State law related to retail theft. The bill establishes and upgrades certain crimes related to retail theft, permits certain defendants to be sentenced to extended terms of imprisonment, and permits the establishment a retail theft unit in the Department of Law and Public Safety.

The bill establishes that it is aggravated assault to assault an employee of a store or other retail mercantile establishment. Aggravated assault of an employee of a retail mercantile establishment is a crime of the third degree if the victim suffers bodily injury; otherwise, it is a crime of the fourth degree. A crime of the third degree is punishable by three to five years imprisonment, a fine of up to \$15,000, or both. A crime of the fourth degree is punishable by up to 18 months imprisonment, a fine of up to \$10,000, or both.

The bill establishes a crime of the second degree if any portion of a tax, fee, penalty, or interest, required to be paid or turned over was accrued through conduct as a leader of an organized retail theft enterprise, otherwise it is a crime of the third degree. Relatedly, the bill clarifies that a person is guilty of a crime of the second degree if the taxes the person failed to turn over to the Division of Taxation were collected or withheld as part of an organized retail theft enterprise. A crime of the second degree is punishable by five to 10 years imprisonment, a fine of up to \$150,000, or both.

The bill provides that a person may be sentenced to an extended term of imprisonment for repeat convictions related to retail theft. A person is a persistent offender if the person has previously been convicted on two or more prior and separate occasions of receiving stolen property, shoplifting, or being a leader of organized retail theft enterprise; or theft that involves the stealing of merchandise, regardless of the dates of the convictions. A persistent offender may be sentenced to an extended term, upon motion of the prosecutor, if the prior conviction was for a crime committed on a separate occasion and the crime for which the person is being sentenced was committed either: (1) within 10 years of the date of the defendant's last release from confinement for the commission of any crime; or (2) within 10 years of the date of the commission of the most recent violation of a crime established in the bill for which the defendant has a prior conviction.

The bill provides that the value of merchandise involved in a violation of the shoplifting statute may be aggregated in determining the grade of the offense where the acts or conduct constituting a violation were committed pursuant to one scheme or course of conduct, whether from the same

person or several persons regardless of the time period over which the scheme or course of conduct took place, or were committed in furtherance of or in conjunction with an organized retail theft enterprise.

The bill updates the fencing statute to clarify that the statute also applies to online sales of stolen goods. The bill also separately establishes the offense of fostering the sale of stolen property, which is a disorderly persons offense. A disorderly persons offense is punishable by up to six months imprisonment, a fine of up to \$1,000, or both.

The bill imposes certain packaging and consumer notice requirements for the sale of gift cards and requires the Division of Consumer Affairs in the Department of Law and Public Safety to create a notice related to gift card fraud for dissemination in locations that sell gift cards.

Finally, the bill requires the Office of the Attorney General to undertake steps as it deems appropriate to promote the effective investigation, prosecution, and deterrence of organized retail theft in this State, which may include establishing a unit, task force, or other appropriate office or initiative to combat organized retail theft.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that establishing and upgrading certain crimes related to retail theft and sentencing certain defendants to extended prison terms may result in an indeterminate annual increase in State and local expenditures and revenues. The OLS lacks sufficient information to quantify the fiscal impact, as it is not possible to estimate the number of crimes likely to be committed under the provisions of this bill or how many persistent offenders will be sentenced to extended prison terms. Generally, a presumption of non-incarceration applies to first time offenders of crimes of the fourth degree and third degree.

The bill requires the Department of Law and Public Safety to undertake appropriate steps for the deterrence of organized retail theft, which may include establishing a unit or task force for the investigation and prosecution of such crimes in the State. The establishment of such a unit would further increase annual State costs.

Among other provisions that could result in incarceration, the bill also provides that a person may be sentenced to an extended term of imprisonment for repeat convictions related to retail theft. As of January 1, 2024, the State prison facilities had a total of 472 individuals incarcerated for property offenses, which include burglary, arson, theft, forgery, embezzlement, and receiving or possessing stolen property. The Department of Corrections does not provide data separated by offense. This number also does not account for the aggravated assault of an employee at a retail mercantile establishment under the provisions of this bill, which may be covered under the “violent offenses” category presented in department’s 2024 Population Characteristics Report. The OLS notes that to the extent the bill results in additional incarcerations, the Department of Corrections would incur those extra costs. Based on information provided by the department, the FY 2023 average annual cost for housing, ensuring security, and providing services to an incarcerated individual was \$75,574, with an average daily cost of \$207.

The OLS finds that expenditures are likely to increase at the local level since disorderly persons offenses are adjudicated in municipal courts and defendants are sentenced to county jails.

According to information provided by the Administrative Office of the Courts, the median daily cost to house an inmate in a county jail is \$228. Annual municipal revenue would also likely increase due to an increase in court filing fees and penalties from these disorderly persons cases.

Section: Judiciary

*Analyst: Anuja Pande Joshi
Senior Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Governor Murphy Signs Bill to Protect New Jersey Businesses Against Retail Theft

04/01/2025

Legislation Expands on Commitment to Create Safer Communities for Businesses, Retail Workers, and Consumers

NORTH BRUNSWICK – Governor Phil Murphy today signed [A4755/S3587](#), which establishes and upgrades certain crimes related to retail theft, provides that repeat offenders can be sentenced to extended prison terms, addresses gift card fraud, and requires the Attorney General to take actions to combat organized retail theft.

“No business owner or retail worker should have to fear for their safety or endure the financial loss caused by organized retail theft,” **said Governor Murphy**. “Over the past few years, we have worked to crack down on organized retail theft, which threatens livelihoods and public safety. With today’s bill, we are taking decisive action to combat this growing threat and protect businesses and workers statewide.”

To impose stricter penalties for these crimes and establish a dedicated effort to combat organized retail theft, the bill specifically:

1. Upgrades any simple assault to an aggravated assault when committed against a retail employee engaged in the performance of their duties
2. Upgrades to a second-degree crime the failure to pay a tax, fee, penalty, or interest due if accrued through conduct as a leader of an organized retail theft enterprise
3. Establishes fostering the sale of stolen property as a disorderly persons offense
4. Provides that the value of merchandise involved in a shoplifting offense may be used to upgrade the offense
5. Provides that a person may be sentenced to an extended prison term for repeat convictions related to retail theft
6. Requires merchants that sell gift cards to ensure that the gift cards are enclosed in secure packaging and that they display a consumer notice related to gift card fraud provided by the Division of Consumer Affairs
7. Requires the Attorney General to undertake steps as deemed appropriate to effectively investigate, prosecute, and deter organized retail theft, which may include establishing a retail theft unit, task force, or other office or initiative

“We look forward to working with our law enforcement partners to continue fighting sophisticated organized retail theft rings using the tools provided by the Legislature and Governor Murphy,” **said Attorney General Matthew J. Platkin**. “This new law upgrades and, in some circumstances, provides for extended terms of imprisonment for certain retail theft crimes, as well as addressing gift card fraud. It will give us additional ways to better protect New Jersey retailers, their employees, and their customers from victimization.”

“This bill is a major step forward in our fight against organized retail theft,” **said Colonel Patrick J. Callahan, Superintendent of the New Jersey State Police**. “By imposing stricter penalties, protecting retail employees, and cracking down on gift card fraud, we are sending a strong message that these crimes will not be tolerated. Governor Murphy’s leadership ensures law enforcement has the tools to hold offenders accountable and safeguard New Jersey businesses, employees, and consumers.”

With the signing of this bill, Governor Murphy brings New Jersey in line with surrounding states, including New York and Pennsylvania, that have already taken similar measures to combat organized retail theft.

The prime sponsors of this bill, which passed unanimously in both chambers, are Senator John Burzichelli and Assemblyman Joe Danielson. Other primary sponsors include Senator Holly Schepisi and Assemblymembers Alex Sauickie and Heather Simmons.

“This law will help fight the retail crime rings that operate on a much larger scale than individual shoplifters who take products for personal use. These are professional shoplifters backed by criminal organizations that plan large-scale thefts and fence the products on the gray market, often selling across state lines or through the internet. It’s grown into a billion-dollar criminal enterprise that costs the average family an estimated \$500 a year,” **said Senator Burzichelli**. “The health and safety of consumers are put at additional risk when these gangs resell consumable items or medical products that were stored in compromised conditions or sold with altered expiration dates. This is a true consumer protection law that will help safeguard the public’s health and save consumers money.”

“The surge of organized retail crime has cost businesses billions, driven up prices for consumers, and has put employees’ safety at risk as they face growing threats of violence from organized theft rings,” **said Senator Schepisi**. “We’ve witnessed an alarming rise in large-scale theft operations across the nation, especially here in New Jersey, where stolen merchandise is swiftly sold for illicit gains. With the Governor’s signature, we can now impose tougher penalties to deter criminals and their theft organizations, and, most importantly, enhance protections for both retailers and their customers. At the heart of this issue is the safety of our communities. Retail employees shouldn’t have to fear for their safety, and shoppers deserve peace of mind that the products they buy are safe and haven’t been tampered with in any way.”

“New Jerseyans continue to feel the impact of organized retail theft crimes in their wallets and their pocketbooks,” **said Assemblyman Danielson, Chair of the Public Safety and Preparedness Committee**. “The legislation signed into law today will help law enforcement as they fight this growing threat. It will also reduce the burden faced by consumers who purchase goods from these retail establishments.”

“The signing of this legislation into law is a critical step in combating organized retail crime, including smash-and-grab thefts, which threaten businesses, retail workers, and consumers—especially in the pharmaceutical sector,” **said Assemblyman Sauickie**. “By strengthening penalties and enforcement, this bill supports law enforcement efforts and safeguards hardworking employees. With neighboring states like New York and Pennsylvania already taking action, New Jersey must act now to prevent becoming a prime target for these crimes. It ensures a safer retail environment and reinforces protections for both businesses and consumers across the state.”

“The repercussions of organized retail theft in New Jersey are both tangible and far reaching,” **said Assemblywoman Simmons**. “It’s incumbent upon us as legislators to do what we can to quash criminal activity by ensuring law enforcement has the resources needed to fight this type of crime.”

“I am grateful to Governor Murphy and the Legislature for taking action to protect our communities and local businesses,” **said Jason Ravitz, Vice President of Retail Operations, Ravitz Family Markets**. “This measure will enhance the safety of our store associates and customers while helping to combat the financial impact organized retail theft has on businesses and the state. It’s a win-win for everyone, especially for family-owned businesses like ours that cannot afford these losses.”

“In recent years, retailers across New Jersey have been targeted by professional, highly organized criminal enterprises. And while retailers are experiencing a higher frequency of thefts overall, even more troubling has been the growing threat of violence,” **said John Holub, President, New Jersey Retail Merchants Association.** “This legislation not only addresses gift card fraud and prolific shoplifters, but also the safety of our employees. The legislation being signed into law today will go a long way in giving the Attorney General the necessary tools to combat these growing threats.

“NJBIA thanks Governor Murphy for signing this important legislation into law, as well as the strong bipartisan sponsorship and support it received in the Legislature before reaching his desk,” **said Michele Siekerka, President & CEO, New Jersey Business & Industry Association.** “Organized retail crime is a serious issue that collectively costs businesses billions of dollars, increases product prices for consumers and sometimes even puts employees’ safety at risk. Further, the investigations that go into prosecuting these cases are often a heavy draw on crucial enforcement resources. The increased penalties for these illegal operators, the added consumer protections and legal resources dedicated to prosecute and deter these crimes as part of this new law are a win-win-win for all.”

“We are pleased to join in this effort to fight to protect businesses, store employees and shoppers who depend on affordable, quality products that can be purchased safely and confidently. Together, under the leadership of Governor Murphy and Attorney General Platkin, we will drastically reduce the amount of organized retail theft that has become an epidemic in New Jersey,” **said Linda Doherty, President & CEO, New Jersey Food Council.** “New Jersey is taking a defiant stance and recognizing that organized retail crime is not just petty shoplifting from the neighborhood grocer. We are fighting a behemoth operation of professional thieves that are methodically moving from one town to another in New Jersey, and across state lines, stealing merchandise off shelves and reselling them in the gray marketplace. With the Governor’s signature, professional thieves will no longer see New Jersey as an ‘opportunity’ for organized retail crime enterprises. This new law signals there’s a new sheriff in town.”

“The signing of A4755/S3587 marks a crucial step in the fight against organized retail crime, which has significantly impacted the business community,” **said Christina Renna, President and CEO, Chamber of Commerce Southern New Jersey.** “This legislation strengthens protections for both retailers and consumers, and the Chamber of Commerce Southern New Jersey applauds these proactive measures to create a more safe and thriving economic environment.”

“Governor Murphy’s signing of S-3587 is a critical step toward protecting New Jersey businesses, employees, and consumers from the devastating impacts of organized retail crime,” **said Michael Egenton, Executive Vice President, New Jersey State Chamber of Commerce.** “This legislation will help curb large-scale theft operations that not only endanger retail workers but also drive up costs for hardworking New Jersey families. Strengthening penalties and enforcement tools is essential to ensuring the safety of our communities and the stability of our local economy. We applaud the bipartisan leaders who championed this bill and thank Governor Murphy for taking action to address this urgent issue.”

“The Statewide Hispanic Chamber of Commerce of New Jersey applauds Governor Murphy for signing this critical legislation to crack down on organized retail theft,” **said Chairman Luis O. De la Hoz and President & CEO Carlos Medina.** “Fraud hurts all of us—but especially the small Hispanic-owned businesses that are the backbone of our communities and disproportionately targeted. We stand with our governor echo the law’s directive: New Jersey stands with entrepreneurs, not criminals. We thank our legislators for recognizing the urgent need to protect our storefronts, employees and local economies.”

“The passage of this legislation marks a significant step toward protecting New Jersey’s small businesses and communities from the devastating impact of organized retail theft. By strengthening penalties and enhancing

enforcement efforts, we are sending a clear message that these crimes will not be tolerated,” **said John E. Harmon, Sr., Founder, President & CEO, African American Chamber of Commerce of New Jersey.** “The African American Chamber of Commerce of New Jersey fully supports this bill and commends our legislators for their commitment to safeguarding the economic vitality of our state.”

“The Punjabi Chamber of Commerce appreciates the commitment of our Governor and elected officials for providing enhanced penalties for retail theft and assault on retail workers. These protective measures are required to protect not only retailers and their workers, but the public at large,” **said Gurpreet Singh Pasricha, Founder & Trustee, Punjabi Chamber of Commerce.**

“Retail theft damages businesses and it leaves people feeling unsafe. Today’s bill signing gives law enforcement the tools to show thieves there are serious consequences to terrorizing our communities,” **said Peter Andreyev, President, New Jersey State Policemen's Benevolent Association.**

“The Fraternal Order of Police - New Jersey State Lodge supports A4755/S3587 passage into law that will enhance consumer and business protections from fraud and theft, while addresses a root cause of these criminal activities,” **said Robert W. Fox, President, Fraternal Order of Police – New Jersey State Lodge.** “The FOP thanks the Governor and the legislative sponsors and leadership for addressing these needs, enhancing protections, and creating greater penalties for those who prey upon our citizens and businesses.”

“Retail workers have faced growing challenges on the job, and this law gives them the recognition and support they deserve. Our members work hard to serve their communities, and they should be able to do so in a safe and respectful environment. We thank Governor Murphy and legislative leaders for taking this meaningful step to support retail workers across New Jersey,” **said Charles Hall, President, RWDSU-UFCW Local 108.**

“Retail theft doesn’t just hurt businesses – it puts our workers at risk and drives up prices for everyday New Jersey families. This law is a needed step to protect the people on the frontlines, especially our union members working in retail, who deserve to feel safe at their jobs. We thank Governor Murphy and the Legislature for recognizing the seriousness of this issue and taking action,” **said Sam Ferraino, President, UFCW Local 360 & Southern NJ Central Labor Council.**

“Retail theft has become more organized, putting workers and everyday shoppers in harm’s way, and hurting small businesses. We thank the Governor and leaders in the legislature for supporting this law that will strengthen our state’s overall approach to the problem and sends a clear message that New Jersey is taking this threat seriously. Our troopers remain ready to support efforts that protect the public and hold offenders accountable,” **said Wayne Blanchard, President, NJ State Troopers Fraternal Association**

Posted on: April 1, 2025

Governor Signs Schepisi Bill to Address Rampant Retail Crimes

Today, Governor Phil Murphy signed bipartisan legislation sponsored by Senator Holly Schepisi (R-39) that targets the rising threat of organized retail crime by increasing penalties for retail theft and enhancing law enforcement's ability to address these crimes.



“The surge of organized retail crime has cost businesses billions, driven up prices for consumers, and has put employee’s safety at risk as they face growing threats of violence from organized theft rings,” said Sen. Schepisi. “We’ve witnessed an alarming rise in large-scale theft operations across the nation, especially here in New Jersey, where stolen merchandise is swiftly sold for illicit gains. With the Governor’s signature, we can now impose tougher penalties to deter criminals and their theft organizations, and, most importantly, enhance protections for both retailers and their customers.”

Organized retail crime is a growing epidemic driven by professional theft rings that steal large quantities of goods from stores to resell, either directly or through a middleman—a practice known as fencing. These theft rings often cross state lines and in some cases operate internationally, targeting retailers of all sizes, from big box stores to small-town grocers and pharmacies.

Senator Schepisi’s bipartisan bill, S-3587, outlines various changes to New Jersey law related to organized retail crime, the online sale of stolen goods, gift card fraud, and the assault of retail workers. The bill additionally provides prosecutors the ability to aggregate shoplifting violations when determining the degree of the offense.

Gift card fraud, in particular, has been linked to organized crime in China and the production and smuggling of fentanyl. To combat this, the bill would establish stronger packaging and consumer notice requirements.

“At the heart of this issue is the safety of our communities. Retail employees shouldn’t have to fear for their safety, and shoppers deserve peace of mind that the products they buy are safe and haven’t been tampered with in any way,” Schepisi concluded.

You can read the full text of the bill online [here](#).

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Danielsen Bill Enhancing Penalties for Organized Retail Theft Signed into Law

Law will protect consumers and retail employees by targeting highly sophisticated, organized retail theft rings

(TRENTON) — Legislation designed to deter organized retail theft was signed into law today. Organized retail theft is a threat to local businesses, jobs and security, and Bill **A4755** will strengthen penalties and add stronger protections to combat the crime. Assemblyman **Joe Danielsen** and Assemblywoman **Heather Simmons** sponsored the legislation.



“New Jerseyans continue to feel the impact of organized retail theft crimes in their wallets and their pocketbooks,” **said Assemblyman Danielsen (D-Middlesex, Somerset), Chair of the Public Safety and Preparedness Committee.** “The legislation signed into law today will help law enforcement as they fight this growing threat. It will also reduce the burden faced by consumers who purchase goods from these retail establishments.”

According to New Jersey Food Council, New Jersey is deprived of an estimated \$200 million in sales taxes as a result of retail theft. Organized retail crime can lead to other consequences beyond economic loss, including greater insurance costs for retailers, reductions in store hours, store closures, less inventory, and higher retail costs for consumers.

“The repercussions of organized retail theft in New Jersey are both tangible and far reaching,” **said Assemblywoman Simmons (D-Gloucester, Salem, Cumberland).** “It’s incumbent upon us as legislators to do what we can to quash criminal activity by ensuring law enforcement has the resources needed to fight this type of crime.”

The law introduces several provisions aimed at deterring criminal activity while protecting businesses, employees, and consumers. These include measures such as tougher penalties for those convicted of retail theft and requiring the New Jersey Division of Consumer Affairs to provide notice on its website to customers on the risk of gift card scams.