

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

**HOUSE BILL 495
RATIFIED BILL**

AN ACT TO CRIMINALIZE MONEY LAUNDERING AND TO REVISE CERTAIN
LARCENY LAWS.

The General Assembly of North Carolina enacts:

CRIMINALIZE MONEY LAUNDERING

SECTION 1.(a) Article 20 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-118.8. Money laundering.

(a) Definitions. – The following definitions apply in this section:

- (1) Criminal activity. – An offense that is (i) classified as a felony under the laws of this State or the United States or (ii) punishable by imprisonment for more than one year under the laws of another state.
- (2) Financial institution. – As defined in G.S. 14-119 or as defined in 31 U.S.C. § 5312.
- (3) Funds. – Includes any of the following:
 - a. Coin or paper money of the United States or any other country that circulates and is customarily used and accepted as a medium of exchange in the country of issue.
 - b. United States silver certificates, United States Treasury notes, and Federal Reserve System notes.
 - c. An official foreign bank note that is customarily used and accepted as a medium of exchange in a foreign country and a foreign bank draft.
 - d. Currency or its equivalent, including an electronic fund, a personal check, a bank check, a traveler's check, a money order, a bearer negotiable instrument, a bearer investment security, a bearer security, a certificate of stock in a form that allows title to pass on delivery, or a digital currency.
 - e. Virtual currency or any other medium of exchange in electronic or digital format that is not a coin or currency of the United States or any other country.
- (4) Insurer. – As defined in G.S. 58-1-5.
- (5) Proceeds of criminal activity. – Funds acquired or derived directly or indirectly from, produced through, realized through, or used in the commission of criminal activity.
- (6) Transaction. – Any purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition between any parties, persons, businesses, or entities, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safety deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.



(b) Offense. – A person commits the offense of money laundering if the person or organization knowingly and willfully does any of the following involving proceeds of criminal activity or funds that alone or aggregated pursuant to subsection (g) of this section exceed ten thousand dollars (\$10,000):

- (1) Acquires or maintains an interest in, conceals, possesses, transfers, or transports the proceeds of criminal activity.
- (2) Conducts, supervises, or facilitates a transaction involving the proceeds of criminal activity.
- (3) Invests, expends, or receives, or offers to invest, expend, or receive, the proceeds of criminal activity or funds that the person believes are the proceeds of criminal activity.
- (4) Finances or invests, or intends to finance or invest, funds that the person believes are intended to further the commission of criminal activity.
- (5) Uses, transports, transmits, or transfers; conspires to use, transport, transmit, or transfer; or attempts to use, transport, transmit, or transfer the proceeds of criminal activity to conduct or attempt to conduct a transaction or make other disposition with the intent to conceal or disguise the nature, location, source, ownership, or control of the proceeds of criminal activity.
- (6) Uses the proceeds of criminal activity with the intent to promote, in whole or in part, the commission of criminal activity.
- (7) Conducts or attempts to conduct a transaction involving the proceeds of criminal activity, knowing the property involved in the transaction constitutes proceeds of criminal activity with the intent to avoid a transaction reporting requirement under federal law.

(c) Knowledge of Criminal Activity. – Knowledge of the nature of the criminal activity giving rise to the proceeds is required to establish a culpable mental state under this section.

(d) Defense. – It is a defense to prosecution under this section that the person acted with intent to facilitate the lawful seizure, forfeiture, or disposition of funds or other legitimate law enforcement purpose pursuant to the laws of this State or the United States.

(e) Punishment. – In addition to any other civil or criminal penalties provided by law, a person who commits an offense under subsection (b) of this section shall be punished as follows:

- (1) If the value of the proceeds or funds is less than one hundred thousand dollars (\$100,000), the person is guilty of a Class H felony.
- (2) If the value of the proceeds or funds is one hundred thousand dollars (\$100,000) or more, the person is guilty of a Class C felony.

(f) Forfeiture. – In addition to the punishment set forth in subsection (e) of this section, all property of every kind used or intended for use in the course of, derived from, maintained by, or realized through a violation of subsection (b) of this section shall be subject to forfeiture under the procedure set forth in either G.S. 14-2.3 or G.S. 75D-5.

(g) Aggregation. – If the proceeds of criminal activity are related to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one offense and the value of the proceeds aggregated in determining the classification of the offense under subsection (e) of this section.

(h) Merger. – Each violation of subsection (b) of this section constitutes a separate offense and shall not merge with any other offense.

(i) Conspiracy. – A person who conspires to commit an offense under subsection (b) of this section shall be punished as provided in subsection (e) of this section, and all other provisions of this section shall apply to that offense. It shall not be a defense to conspiracy to commit an offense under subsection (b) of this section that the person with whom the defendant is alleged to have conspired was a law enforcement officer or a person acting at the direction of a law

enforcement officer that represented to the defendant that the funds are proceeds of or are intended to further the commission of criminal activity.

(j) Protection from Liability. – Notwithstanding any provision of law to the contrary, a financial institution, or an agent of the financial institution, acting in a manner described by subsection (d) of this section is not liable for civil damages to a person who (i) claims an ownership interest in funds involved in a violation of subsection (b) of this section or (ii) conducts with the financial institution or insurer a transaction concerning funds involved in a violation of subsection (b) of this section.

(k) Venue. – Each county where a part of the violations under subsection (b) of this section occurs shall have concurrent venue as described in G.S. 15A-132."

SECTION 1.(b) G.S. 75D-3(c)(1)c. reads as rewritten:

"c. Any conduct involved in a "money laundering" ~~activity;~~
activity, including activity covered by G.S. 14-118.8; and"

REVISIONS TO CERTAIN LARCENY LAWS

SECTION 2.(a) G.S. 14-86.5 reads as rewritten:

"§ 14-86.5. Definitions.

The following definitions apply in this Article:

- (1) "Retail property." – Any ~~new~~ article, product, commodity, item, or component intended to be sold in retail commerce.
- (2) ~~"Retail property fence." – A person or business that buys retail property knowing or believing that retail property is stolen.~~
- (3) "Theft." – To take possession of, carry away, transfer, or cause to be carried away the retail property of another with the intent to steal the retail property.
- (4) "Value." – The retail value of an item as advertised by the affected retail establishment, to include all applicable taxes."

SECTION 2.(b) G.S. 14-86.6 reads as rewritten:

"§ 14-86.6. Organized retail theft.

(a) Offense. – A person commits the offense of organized retail theft if the person does any of the following:

- (1) Conspires with another person to commit theft of retail property from retail establishments with the intent to ~~sell~~ sell, transfer, or possess that retail property for monetary or other ~~gain, and who takes or causes that retail property to be placed in the control of a retail property fence or other person in exchange for consideration.~~ gain.
- (2) Receives or possesses any retail property that has been taken or stolen in violation of subdivision (1) of this subsection while knowing or having reasonable grounds to believe the property is stolen.
- (3) Conspires with two or more other persons as an organizer, supervisor, financier, leader, or manager to engage for profit in a scheme or course of conduct to effectuate or intend to effectuate the transfer or sale of property stolen from a merchant in violation of this section.

(a1) Repealed by Session Laws 2022-30, s. 1, effective December 1, 2022.

(a2) Punishments. – The following classifications apply to the offense of organized retail theft:

- (1) An offense when the retail property has a value exceeding one thousand five hundred dollars (\$1,500) aggregated over a 90-day period is a Class H felony.
- (2) An offense when the retail property has a value exceeding twenty thousand dollars (\$20,000) aggregated over a 90-day period is a Class G felony.
- (3) An offense when the retail property has a value exceeding fifty thousand dollars (\$50,000) aggregated over a 90-day period is a Class F felony.

(4) An offense when the retail property has a value exceeding one hundred thousand dollars (\$100,000) aggregated over a 90-day period is a Class C felony.

(b) Forfeiture. – Except as otherwise provided in G.S. 14-86.1, any interest a person has acquired or maintained in violation of this section shall be subject to forfeiture pursuant to the procedures for forfeiture set out in G.S. 18B-504.

(c) Multiple Thefts. – Thefts of retail property occurring in more than one county may be aggregated into an alleged violation of this section. Each county where a part of the charged offense occurs has concurrent venue as described in G.S. 15A-132."

SECTION 2.(c) G.S. 14-72.1 reads as rewritten:

"§ 14-72.1. Concealment of merchandise in mercantile establishments.

(a) Whoever, without authority, willfully conceals the goods or merchandise of any store, not theretofore purchased by such person, while still upon the premises of such store, shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in subsection (e). Such goods or merchandise found concealed upon or about the person and which have not theretofore been purchased by such person shall be prima facie evidence of a willful concealment.

(b) Repealed by Session Laws 1985 (Regular Session, 1986), c. 841, s. 2.

(c) A merchant, or the merchant's agent or employee, or a peace officer who detains or causes the arrest of any person shall not be held civilly liable for detention, malicious prosecution, false imprisonment, or false arrest of the person detained or arrested, where such detention is upon the premises of the store or in a reasonable proximity thereto, is in a reasonable manner for a reasonable length of time, and, if in detaining or in causing the arrest of such person, the merchant, or the merchant's agent or employee, or the peace officer had at the time of the detention or arrest probable cause to believe that the person committed the offense created by this section. If the person being detained by the merchant, or the merchant's agent or employee, is a minor under the age of 18 years, the merchant or the merchant's agent or employee, shall call or notify, or make a reasonable effort to call or notify the parent or guardian of the minor, during the period of detention. A merchant, or the merchant's agent or employee, who makes a reasonable effort to call or notify the parent or guardian of the minor shall not be held civilly liable for failing to notify the parent or guardian of the minor.

(d) Whoever, without authority, willfully transfers any price ~~tag-tag~~, product code, or other price mechanism from goods or merchandise to other goods or merchandise having a higher selling price or marks said goods at a lower price or substitutes or superimposes thereon a false price tag and then presents said goods or merchandise for purchase shall be guilty of a misdemeanor and, upon conviction, shall be punished as provided in subsection (e).

Nothing herein shall be construed to provide that the mere possession of goods or the production by shoppers of improperly priced merchandise for checkout shall constitute prima facie evidence of guilt.

(d1) Notwithstanding subsection (e) of this section, any person who violates subsection (a) of this section by using a lead-lined or aluminum-lined bag, a lead-lined or aluminum-lined article of clothing, or a similar device to prevent the activation of any antishoptlifting or inventory control device is guilty of a Class H felony.

(d2) Whoever, without authority, willfully transfers any price tag, product code, or other price mechanism, from goods or merchandise to other goods or merchandise having a selling price in excess of two hundred dollars (\$200.00) higher than the price tag, product code, or other price mechanism from which the price tag, product code, or other pricing mechanism was transferred and then presents said goods or merchandise for purchase shall be guilty of a Class H felony.

Nothing herein shall be construed to provide that the mere possession of goods or the production by shoppers of improperly priced merchandise for checkout shall constitute prima facie evidence of guilt.

(e) Punishment. – For a first conviction under subsection (a) or (d), or for a subsequent conviction for which the punishment is not specified by this subsection, the defendant shall be guilty of a Class 3 misdemeanor. The term of imprisonment may be suspended only on condition that the defendant perform community service for a term of at least 24 hours. For a second offense committed within three years after the date the defendant was convicted of an offense under this section, the defendant shall be guilty of a Class 2 misdemeanor. The term of imprisonment may be suspended only on condition that the defendant be imprisoned for a term of at least 72 hours as a condition of special probation, perform community service for a term of at least 72 hours, or both. For a third or subsequent offense committed within five years after the date the defendant was convicted of two other offenses under this section, the defendant shall be guilty of a Class 1 misdemeanor. The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least 11 days. However, if the sentencing judge finds that the defendant is unable, by reason of mental or physical infirmity, to perform the service required under this section, and the reasons for such findings are set forth in the judgment, the judge may pronounce such other sentence as the judge finds appropriate.

(f) Repealed by Session Laws 2009-372, s. 12, effective December 1, 2009, and applicable to offenses committed on or after that date.

(g) Limitations. – For active terms of imprisonment imposed under this section:

- (1) The judge may not give credit to the defendant for the first 24 hours of time spent in incarceration pending trial;
- (2) The defendant must serve the mandatory minimum period of imprisonment and good or gain time credit may not be used to reduce that mandatory minimum period; and
- (3) The defendant may not be released or paroled unless he is otherwise eligible and has served the mandatory minimum period of imprisonment."

SECTION 2.(d) G.S. 14-72.11 reads as rewritten:

"§ 14-72.11. Larceny from a merchant.

A person is guilty of a Class H felony if the person commits larceny against a merchant under any of the following circumstances:

- (1) By taking property that has a value of more than two hundred dollars (\$200.00), using an exit door erected and maintained to comply with the requirements of 29 C.F.R. § 1910.36 and 29 C.F.R. § 1910.37, to exit the premises of a store.
- (2) By removing, destroying, or deactivating a component of an antishoplifting or inventory control device to prevent the activation of any antishoplifting or inventory control device. As used in this subdivision, the phrase "antishoplifting or inventory control device" shall mean any physical or electronic mechanism utilized to prevent larceny from a merchant and includes, but is not limited to, product security tags affixed to an item, shelving, security cameras, and security systems utilized by a merchant to prevent larceny.
- ~~(3) By affixing a product code created for the purpose of fraudulently obtaining goods or merchandise from a merchant at less than its actual sale price.~~
- (4) When the property is infant formula valued in excess of one hundred dollars (\$100.00). As used in this subsection, the term "infant formula," has the same meaning as found in 21 U.S.C. § 321(z).
- (5) By exchanging property for cash, a gift card, a merchandise card, or some other item of value, knowing or having reasonable grounds to believe the property is stolen.

- (6) By fraudulently creating a product code or any other price mechanism utilized by a merchant to determine the price of a good with the intent to fraudulently obtain goods or merchandise from a merchant at less than its actual sale price.
- (7) By affixing a product code or any other price mechanism utilized by a merchant to determine the price of a good when the product code or other price mechanism was created by someone other than the merchant or manufacturer of the goods or merchandise for the purpose of fraudulently obtaining goods or merchandise from a merchant at less than its actual sale price.
- (8) By presenting a good for purchase for the purpose of fraudulently obtaining goods or merchandise from a merchant at less than its actual sales price knowing that a product code or any other price mechanism utilized by a merchant to determine the price of the good has been replaced by a product code or other price mechanism created by someone other than the merchant or manufacturer.

As used in this section, the phrase "product code or other pricing mechanism" shall mean any means used by a merchant to designate or identify the price of an item by a person or a merchant and includes, but is not limited to, a price tag, a Universal Product Code (UPC), or a Quick Response (QR) Code."

EFFECTIVE DATE

SECTION 3. This act becomes effective December 1, 2024, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 20th day of June, 2024.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2024