

House Study Bill 705 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOLT)

A BILL FOR

1 An Act establishing the criminal offense of organized retail
2 theft, providing penalties, and including effective date
3 provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 714.2B Organized retail theft.

2 1. As used in this section, unless the context otherwise
3 requires:

4 a. "*Pattern of retail theft*" means acts committed or
5 directed by a person on at least two separate occasions in the
6 preceding six months that would constitute a violation of any
7 of the following:

8 (1) Burglary under section 713.1 when the structure is a
9 retail establishment.

10 (2) Theft under section 714.1, subsection 1, 3, 4, or 6,
11 involving retail merchandise.

12 (3) A violation of section 714.7B concerning theft
13 detection devices.

14 (4) Theft of pseudoephedrine, under section 714.7C, from a
15 retail establishment.

16 b. "*Retail establishment*" means the building where a
17 retailer sells retail merchandise.

18 c. "*Retail merchandise*" means all forms of tangible property
19 held out for sale by a retailer.

20 d. "*Retail theft enterprise*" means a group of two or more
21 individuals with a shared goal involving the unauthorized
22 removal of retail merchandise from a retailer. "*Retail theft*
23 *enterprise*" does not require the membership of the enterprise
24 to remain the same or that the same individuals participate in
25 each offense committed by the enterprise.

26 e. "*Retailer*" means a person or entity that sells retail
27 merchandise.

28 f. "*Value*" means the same as provided in section 714.3.

29 2. A person commits organized retail theft when all of the
30 following occur:

31 a. The person is employed by or associated with a retail
32 theft enterprise.

33 b. The person has previously engaged in a pattern of
34 retail theft and intentionally commits an act or directs
35 another member of the retail theft enterprise to commit an act

1 involving retail merchandise that is a violation of section
2 713.1, section 714.1, subsection 1, 3, 4, or 6, section 714.7B,
3 or section 714.7C.

4 *c.* The person or another member of the retail theft
5 enterprise sells or intends to sell the stolen retail
6 merchandise, advertises or displays any item of the stolen
7 retail merchandise for sale, or returns any item of the stolen
8 retail merchandise to a retailer for anything of value.

9 3. A person who commits organized retail theft is guilty of
10 the following:

11 *a.* A class "C" felony if the value of the property stolen
12 exceeds five thousand dollars.

13 *b.* A class "D" felony if either of the following
14 circumstances exists:

15 (1) The value of the property stolen is more than one
16 thousand dollars but not more than five thousand dollars.

17 (2) The value of the property is more than five hundred
18 dollars but not more than one thousand dollars and the person
19 has been convicted at least twice before for a violation of
20 this section, section 713.1, section 714.1, subsection 1, 3,
21 4, or 6, section 714.7B, or section 714.7C, or a statute from
22 another state, the United States, or a foreign jurisdiction, in
23 conformity with any of those sections, and the person received
24 a felony or an aggravated misdemeanor sentence for the offense,
25 and at least two of the prior convictions occurred in the
26 previous ten years.

27 *c.* An aggravated misdemeanor if either of the following
28 circumstances exist:

29 (1) The value of the property stolen is more than five
30 hundred dollars but not more than one thousand dollars.

31 (2) The value of the property is five hundred dollars
32 or less and the person commits the offense within ten years
33 of a previous conviction under this section, section 713.1,
34 section 714.1, subsection 1, 3, 4, or 6, section 714.7B, or
35 section 714.7C, or a statute from another state, the United

1 States, or a foreign jurisdiction, in conformity with any of
2 those sections, and the person received a felony or aggravated
3 misdemeanor sentence for the offense.

4 *d.* A serious misdemeanor if the value of the property stolen
5 is five hundred dollars or less.

6 4. The value of the retail merchandise received by the
7 defendant in violation of this section within any six-month
8 period may be aggregated and the defendant charged accordingly
9 in applying the provisions of this subdivision, provided that
10 when two or more offenses are committed by the same person in
11 two or more counties, the accused may be prosecuted in any
12 county in which one of the offenses was committed for all of
13 the offenses aggregated under this subdivision.

14 5. If a violation of this section creates a reasonably
15 foreseeable risk of bodily harm to another, the penalties
16 described in subsection 3 are enhanced as follows:

17 *a.* If the penalty is a serious misdemeanor or an aggravated
18 misdemeanor, the offense shall be classified and punished as an
19 offense one degree higher than the underlying offense.

20 *b.* If the penalty is a felony, the offense shall be
21 classified and punished as an offense one degree higher than
22 the underlying offense.

23 Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate
24 importance, takes effect upon enactment.

25 EXPLANATION

26 The inclusion of this explanation does not constitute agreement with
27 the explanation's substance by the members of the general assembly.

28 This bill establishes the criminal offense of organized
29 retail theft.

30 The bill defines a "pattern of retail theft" to mean acts
31 committed or directed by a person on at least two separate
32 occasions in the preceding six months that would constitute a
33 violation of any of the following: burglary under Code section
34 713.1 when the building is a retail establishment, theft under
35 Code section 714.1, subsection 1, 3, 4, or 6, involving retail

1 merchandise, a violation of Code section 714.7B concerning
2 theft detection devices, and theft of pseudoephedrine, under
3 Code section 714.7C, from a retail establishment. The bill
4 defines "retail theft enterprise" to mean a group of two or
5 more individuals with a shared goal involving the unauthorized
6 removal of retail merchandise from a retailer. "Retail theft
7 enterprise" does not require the membership of the enterprise
8 to remain the same or that the same individuals participate
9 in each offense committed by the enterprise. The bill
10 also defines "retail establishment", "retail merchandise",
11 "retailer", and "value".

12 The bill provides that a person commits organized retail
13 theft when all of the following occur: the person is employed
14 by or associated with a retail theft enterprise; the person
15 has previously engaged in a pattern of retail theft and
16 intentionally commits an act or directs another member of the
17 retail theft enterprise to commit an act involving retail
18 merchandise that is a violation of Code section 713.1, Code
19 section 714.1, subsection 1, 3, 4, or 6, Code section 714.7B,
20 or Code section 714.7C; and the person or another member of the
21 retail theft enterprise sells or intends to sell the stolen
22 retail merchandise, advertises or displays any item of the
23 stolen retail merchandise for sale, or returns any item of the
24 stolen retail merchandise to a retailer for anything of value.

25 The bill provides that a person who commits organized retail
26 theft is guilty of the following: a class "C" felony if the
27 value of the property stolen exceeds \$5,000; a class "D" felony
28 if either the value of the property stolen is more than \$1,000
29 but not more than \$5,000, or the value of the property is more
30 than \$500 but not more than \$1,000 and the person has been
31 convicted at least twice before for a violation of the bill or
32 one of the other qualifying offenses, the person received a
33 felony or an aggravated misdemeanor sentence for the offense,
34 and at least two of the prior convictions occurred in the
35 previous 10 years; an aggravated misdemeanor if either the

1 value of the property stolen is more than \$500 but not more
2 than \$1,000, or the value of the property is \$500 or less and
3 the person commits the offense within 10 years of a previous
4 conviction under the bill or one of the other qualifying
5 offenses and the person received a felony or aggravated
6 misdemeanor sentence for the offense; or a serious misdemeanor
7 if the value of the property stolen is \$500 or less.

8 The bill provides that the value of the retail merchandise
9 received by the defendant in violation of the bill within any
10 six-month period may be aggregated and the defendant charged
11 accordingly.

12 The bill provides that if a violation of the bill creates
13 a reasonably foreseeable risk of bodily harm to another, the
14 penalties described in the bill are enhanced as follows:
15 if the penalty is a serious misdemeanor or an aggravated
16 misdemeanor, the offense shall be classified and punished as
17 an offense one degree higher than the underlying offense; if
18 the penalty is a felony, the offense shall be classified and
19 punished as an offense one degree higher than the underlying
20 offense.

21 The bill takes effect upon enactment.