

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 19-0047.01 Michael Dohr x4347

SENATE BILL 19-014

SENATE SPONSORSHIP

Coram,

HOUSE SPONSORSHIP

Carver,

Senate Committees

Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO REDUCE INCIDENTS OF THEFT FROM**
102 **RETAIL ESTABLISHMENTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates the crime of retail theft with special circumstances if a person commits theft from a store with one of the following special circumstances:

- ! The person is, at the time of the theft, in possession of an item, article, implement, or device used or designed to overcome security systems, including but not limited to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

lined bags or tag removers, under circumstances indicating an intent to use or employ the item, article, implement, or device for such purposes; or

! To facilitate the theft, the person utilizes an organized effort of multiple persons to remove items from the store with the intent to resell the items.

Retail theft with special circumstances is a class 5 felony.

The bill requires secondhand dealers who purchase gift cards to keep a record of those purchases. Failure to record the purchases in an electronic database is a class 2 misdemeanor for a first offense and a class 6 felony for a second or subsequent offense.

The bill adds a gift card to the definition of a "valuable article", which triggers certain record-keeping requirements.

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

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

4 **18-4-421. Retail theft with special circumstances.** (1) A
5 PERSON COMMITS RETAIL THEFT WITH SPECIAL CIRCUMSTANCES IF HE OR
6 SHE COMMITS THEFT, AS DESCRIBED IN SECTION 18-4-401, FROM A STORE
7 WITH ONE OF THE FOLLOWING SPECIAL CIRCUMSTANCES:

8 (a) THE PERSON IS, AT THE TIME OF THE THEFT, IN POSSESSION OF
9 AN ITEM, ARTICLE, IMPLEMENT, OR DEVICE USED OR DESIGNED TO
10 OVERCOME SECURITY SYSTEMS, INCLUDING BUT NOT LIMITED TO LINED
11 BAGS OR TAG REMOVERS, UNDER CIRCUMSTANCES INDICATING AN INTENT
12 TO USE OR EMPLOY THE ITEM, ARTICLE, IMPLEMENT, OR DEVICE FOR SUCH
13 PURPOSES; OR

14 (b) TO FACILITATE THE THEFT, THE PERSON UTILIZES AN
15 ORGANIZED EFFORT OF MULTIPLE PERSONS TO REMOVE ITEMS FROM THE
16 STORE WITH THE INTENT TO RESELL THE ITEMS. IF ONE OR MORE PERSONS
17 USE CELLULAR TELEPHONES OR SIMILAR ELECTRONIC DEVICES DURING THE
18 COMMISSION OF THE THEFT, THAT USE OF CELLULAR TELEPHONES OR

1 SIMILAR ELECTRONIC DEVICES CONSTITUTES EVIDENCE OF AN ORGANIZED
2 EFFORT OF PERSONS TO COMMIT THE THEFT.

3 (2) RETAIL THEFT WITH SPECIAL CIRCUMSTANCES IS A CLASS 5
4 FELONY.

5 **SECTION 2.** In Colorado Revised Statutes, **amend** 18-13-117 as
6 follows:

7 **18-13-117. Record of sales.** (1) (a) Every secondhand dealer or
8 any person who is a dealer of new goods who is a retailer and sells such
9 goods at a flea market or similar facility or any nonpermanent location
10 shall keep and preserve suitable records of sales made by him OR HER and
11 such other books or accounts as may be necessary to determine the
12 amount of tax for the collection of which he OR SHE is liable under part
13 1 of article 26 of title 39. ~~C.R.S.~~ It is the duty of every such person to
14 keep and preserve for a period of three years all invoices of goods and
15 merchandise purchased for resale, INCLUDING A STORE CREDIT, GIFT CARD,
16 OR MERCHANDISE CARD, and all such books, invoices, and other records
17 shall be open for examination at any time by the executive director of the
18 department of revenue, his OR HER duly authorized agent, or any peace
19 officer.

20 (b) EVERY SECONDHAND DEALER OR ANY PERSON WHO IS A
21 DEALER OF NEW GOODS WHO IS A RETAILER AND SELLS SUCH GOODS AT A
22 FLEA MARKET OR SIMILAR FACILITY OR ANY NONPERMANENT LOCATION
23 SHALL RECORD THE PURCHASE OF A STORE CREDIT, GIFT CARD, OR
24 MERCHANDISE CARD FOR RESALE IN A REGISTER, AS DESCRIBED IN SECTION
25 18-16-105, THAT IS ACCESSIBLE TO LAW ENFORCEMENT.

26 (2) (a) Any person who violates any of the provisions of
27 ~~subsection (1)~~ SUBSECTION (1)(a) of this section commits a class 3

1 misdemeanor.

2 (b) ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBSECTION
3 (1)(b) OF THIS SECTION COMMITS A CLASS 2 MISDEMEANOR; EXCEPT THAT
4 A SECOND OR SUBSEQUENT VIOLATION IS A CLASS 6 FELONY.

5 **SECTION 3.** In Colorado Revised Statutes, 18-16-102, **amend**
6 the introductory portion; and **add** (7)(c) as follows:

7 **18-16-102. Definitions.** As used in this ~~article~~ ARTICLE 16, unless
8 the context otherwise requires:

9 (7) (c) "VALUABLE ARTICLE" ALSO INCLUDES A STORE CREDIT,
10 GIFT CARD, OR MERCHANDISE CARD OF ANY VALUE NOT ISSUED BY THE
11 PERSON.

12 **SECTION 4.** In Colorado Revised Statutes, 29-11.9-103, **amend**
13 (1), (2), (3), and (4) as follows:

14 **29-11.9-103. Required acts of pawnbrokers.** (1) A pawnbroker
15 shall ~~keep a numerical register or other tangible or electronic record in~~
16 ~~which the pawnbroker shall~~ record the following information IN A
17 REGISTER, AS DESCRIBED IN SECTION 18-16-105: The name, address, and
18 date of birth of the customer and the driver's license number or other
19 identification number from any other form of identification that is
20 allowed for the sale of valuable articles pursuant to section 18-16-103 or
21 for the sale of secondhand property pursuant to section 18-13-114; the
22 date, time, and place of the contract for purchase or purchase transaction;
23 ~~and~~ an accurate and detailed account and description of each item of
24 tangible personal property, including but not limited to any trademark,
25 identification number, serial number, model number, brand name, or other
26 identifying marks on such property; AND, FOR A STORE CREDIT, GIFT CARD,
27 OR MERCHANDISE CARD, THE IDENTIFICATION NUMBER, NAME OF THE

1 RETAILER, AND THE VALUE OF CREDIT OR CARD. The pawnbroker shall
2 also obtain a written declaration of the customer's ownership, which shall
3 state that the tangible personal property is totally owned by the customer,
4 or shall have attached to the declaration a power of sale from the partial
5 owner to the customer, how long the customer has owned the property,
6 whether the customer or someone else found the property, and, if the
7 property was found, the details of the finding.

8 (2) The customer shall sign the ~~register or other tangible or~~
9 electronic record and the declaration of ownership and shall receive a
10 copy of the contract for purchase or a receipt of the purchase transaction.

11 (3) The ~~register or other tangible or~~ electronic record, as well as
12 a copy of the contract for purchase or a receipt of the purchase
13 transaction, shall be made ~~available~~ ACCESSIBLE to any local law
14 enforcement agency for inspection at any reasonable time.

15 (4) The pawnbroker shall keep each ~~register or other tangible or~~
16 electronic record for at least three years after the date of the last
17 transaction entered in the register.

18 **SECTION 5. Potential appropriation.** Pursuant to section
19 2-2-703, C.R.S., any bill that results in a net increase in periods of
20 imprisonment in state correctional facilities must include an appropriation
21 of money that is sufficient to cover any increased capital construction, any
22 operational costs, and increased parole costs that are the result of the bill
23 for the department of corrections in each of the first five years following
24 the effective date of the bill. Because this act may increase periods of
25 imprisonment, this act may require a five-year appropriation.

26 **SECTION 6. Act subject to petition - effective date -**
27 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following

1 the expiration of the ninety-day period after final adjournment of the
2 general assembly (August 2, 2019, if adjournment sine die is on May 3,
3 2019); except that, if a referendum petition is filed pursuant to section 1
4 (3) of article V of the state constitution against this act or an item, section,
5 or part of this act within such period, then the act, item, section, or part
6 will not take effect unless approved by the people at the general election
7 to be held in November 2020 and, in such case, will take effect on the
8 date of the official declaration of the vote thereon by the governor.

9 (2) This act applies to offenses committed on or after the
10 applicable effective date of this act.