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Details:

(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2009-10

(session year)

### Assembly

(Assembly, Senate or Joint)

### Committee on ... Criminal Justice (AC-CJ)

#### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

#### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**



October 1, 2009

**EXECUTIVE SESSION HELD**

Present: (10) Representatives Turner, Kessler, Staskunas,  
Hraychuck, Soletski, Pasch, Kleefisch, Friske,  
Kramer, Brooks.

Absent: (1) Representative Ripp.

Moved by Representative Staskunas, seconded by Representative  
Kleefisch that **Assembly Bill 241** be recommended for passage.

Ayes: (9) Representatives Turner, Staskunas,  
Hraychuck, Soletski, Pasch, Kleefisch,  
Friske, Kramer and Brooks.

Noes: (1) Representative Kessler.

Absent: (1) Representative Ripp.

PASSAGE RECOMMENDED, Ayes 9, Noes 1

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Nancy McAdams  
Committee Clerk









ONE SOUTH PINCKNEY, SUITE 504 • MADISON, WI 53703 • 608/244-7150 • FAX 608/244-9030

May 28, 2009

Testimony to Assembly Criminal Justice Committee  
Presented by Michelle Kussow

Good morning Chairman Turner and members of the committee. My name is Michelle Kussow and I am here today representing the Wisconsin Grocers Association. The WGA is a statewide trade association representing more than 1,000 independent grocers, retail grocery chain stores, warehouses and distributors, convenience stores, food brokers, suppliers and wholesalers.

The WGA supports Assembly Bill 241 related to organized retail crime. We had met with Rep. Danou early in the session to discuss WGA issues. When we brought up organized retail crime we were shocked and pleased that Rep. Danou not only knew what organized retail crime was but had real-life experience dealing with the issue as a police officer. Because of this experience, Rep. Danou is able to speak to the law enforcement and criminal side of the issue and the Senate author, Rep. Taylor is an attorney and provides the legal perspective.

I am here today to provide the retail point of view and the reasons we believe AB 241 will help to deter this crime.

As you've heard Organized Retail Crime is an offense that involves two or more persons who are associated for the purpose of shoplifting merchandise within a professional crime ring with the intent to sell in flea markets, pawn shops, on the internet, or in any illegitimate setting. Supermarkets, mass merchandisers, pharmacies, and convenience stores are all targeted by these organized crime groups who look for household items that have a high monetary value and can be easily concealed—like, baby formula, razor blades and cosmetics.

When we talk about ORC we are not referring to individuals or groups that come into a store and steal individual products for personal use. We are referring to professional crime rings that steal pallets of product from trucks and loading docks, wipe out entire shelves of products and load up shopping carts and make their way out of the store. They then go back to their headquarters where they have been warehousing thousands of dollars of these products that they sell online, at flea markets and often times back to unsuspecting retailers.

It is estimated that 30 billion worth of merchandise in the United States is lost to organized retail crime a year. In Wisconsin over \$631 million worth of merchandise is lost, making our state the 15<sup>th</sup> highest targeted state for organized retail crime.

Not only is ORC costly for the targeted businesses, but this type of crime places consumer's health and safety at risk. For example, consumers are potentially at risk when professional theft rings steal consumable products, such as OTC drug products and infant formula. Pilfered products such as these kinds may not be kept under ideal or required storage conditions which can threaten the product's integrity. And often times, these theft rings will repackage and change the labels on stolen products to falsely extend the product's expiration date or to disguise the fact that the merchandise has been stolen.

Numerous states have already enacted retail crime legislation, while several others have legislation pending. I have passed out a chart that provides information on the legislation and their status in these other states. With no laws on the book concerning Organized Retail Crime in Wisconsin, we have become a safe haven for these groups.

A recent national article on ORC pointed to Wisconsin on the issue and said, "In Wisconsin, for example, you'd have to steal more than \$2,500 worth of goods per shoplifting incident to be charged with anything more than a misdemeanor--basically the equivalent of a traffic ticket. Organized retail crime professionals know these limits well, and they steal as much as they can while still staying under them."

Assembly Bill 241 will prevent organized crime rings from singling out Wisconsin as an easy target for these thefts. AB 241 does the following:

- Lowers the felony threshold for retail theft from \$2,500 to \$1,500. Under existing law, the total value of the merchandise stolen needed to reach \$2,500 before the crime could be considered a Class I felony.
- Creates a definition of e-fencing making it illegal to resell stolen products on the internet.
- Increases the penalty for retail theft of merchandise valued at less than \$500 to a Class I felony if the thief steals with intent to resell. This provision essentially makes it a felony to steal anything with intent to resell.
- Requires proof of ownership for the following items sold at flea markets: baby food; cosmetics; devices; drugs; infant formula; batteries; and razor blades.

Organized retail crime negatively impacts both businesses and consumers in Wisconsin. It increases prices on merchandise purchased by consumers and insurance premiums purchased by businesses. It jeopardizes the safety of consumers by removing protections on high risk products. And with an estimated \$631 million dollars of merchandise stolen a year by Organized Retail Crime groups, Wisconsin loses more than \$31.5 million in sales tax revenue.

We encourage the members of this committee to pass AB 241 and help to deter Organized Retail Crime in Wisconsin. Thank you. I'd be happy to answer any questions at this time.





STATE REPRESENTATIVE  
**CHRIS DANOU**

WISCONSIN STATE ASSEMBLY

91ST DISTRICT

May 28, 2009

Testimony to Assembly Criminal Justice Committee  
Assembly Bill 241

Good Morning.

Thank you, Chairman Turner and members of the committee.

I authored this bill with Sen. Taylor based in part on my experiences as a police officer.

Organized retail theft is a crime that results in losses to merchants of up to \$40 billion dollars annually across the United States. It costs Wisconsin merchants approximately \$650 million.

Typically criminals engaged in this activity work in groups. They will move into an area of pre-selected targets. The criminals then enter various retail outlets in a shopping district, usually hitting a series of stores one after the other. They target high value, commonly used items such as expensive OTC medications, baby formula, razors, ink jet printer cartridges and expensive clothing and cosmetics. These gangs typically in a single outing can remove \$5,000-10,000 worth of goods. The gangs then sell the items to a fence, typically for about 30 cents on the dollar. It is not uncommon for a good "booster" to make \$100,000 to \$200,000 a year.

The "fence" then typically sells the stolen goods through flea markets or on line. Because these products are stolen and sold through illegal channels, often medications that should be kept in climate controlled conditions are damaged, expiration dates are changed and products such as infant formula are adulterated or expired, endangering the health and safety of consumers.

This bill is not aimed at the kid who steals a packet of Yu-gi-oh cards. This legislation is targeted at genuine organized crime. The individuals involved in this activity are also often involved in other organized crime activities as well, including drug trafficking, credit card fraud, check kiting scams and the like.

This bill does some of the following:

- Makes retail theft a class I felony if the value of the merchandise exceeds \$1,500.
- Makes retail theft a class I felony if the value is less than \$1,500 but is stolen with the intent to resell the merchandise

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WISCONSIN STATE ASSEMBLY

STATE REPRESENTATIVE  
**CHRIS DANOU**

91ST DISTRICT

- It also attacks the demand side of the crime by requiring persons to show proof of ownership of items being sold at flea markets such as baby food, cosmetics, drugs, infant formula and batteries.

Finally I would point out that if a criminal enters someone's home, steals their television set and sells it, they are committing a burglary, which is a felony. Stealing a television set from a store and reselling it is currently a misdemeanor.

Thank you

Chris Danou

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# Professional Organized Retail Theft Group in Action



**ORT Professionals  
Travel to Target City**



**ORT Group Steals  
Products at Retail**



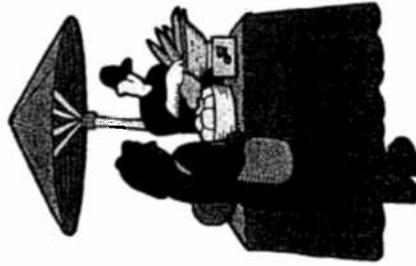
**Stolen Products  
are Stored**



**Stolen Products  
Moved to be Sold**



**Stolen Products  
Sold to Shady  
Dealers**



**Vendor Sells  
Stolen Product  
to Customers**



## McAdams, Nancy

---

**From:** McAdams, Nancy  
**Sent:** Tuesday, June 30, 2009 4:25 PM  
**To:** Rep.Danou; Bahr, Dan  
**Cc:** Sen.Taylor; Dyke, Don; Rep.Turner; Schmidt, Melissa  
**Subject:** 2009 Assembly Bill 241

Dear Dan:

In response to your inquiry earlier today, I spoke with Don Dyke, Legislative Council Attorney for the Assembly Criminal Justice Committee. Don's notes on the public hearing reflected concerns about the bill voiced by Reps. Kessler and Friske. These concerns need to be addressed before Rep. Turner would consider scheduling this bill for an executive session. Don said he would be happy to speak with you in more detail about these concerns. His phone number is 266-0292. In addition, it would be advisable to take an informal tally of the Committee members' position on the bill to ensure it would pass if scheduled for a vote. Please feel free to contact me with any additional questions.

Sincerely,

Nancy McAdams, Committee Clerk  
Assembly Criminal Justice Committee  
Office of State Rep. Robert Turner  
223 North Capitol  
P.O. Box 8953  
Madison, WI 53708-8953  
Phone: 608-266-0731  
Fax: 608-282-3661



AB 241

Section 2 - Inioke (does not like presumptions)

DD - check w/ DA's, AG's

Kessler - ~~943.50 (4m)~~ - 943.50 (4m) - new  
no floor to amount - or subject to  
racketeering only if it exceeds a certain  
amount

Kleejisch - Wants value reduced <sup>to \$500</sup> ↑ 943.50 (4)(a)  
(Sen Taylor wants \$1,500 or more)

Notes from meeting in Rep. Danou's  
office - 9-2-09

Michelle Kussow, Don Dyke, Nancy, Dan (Rep.  
Danou's staff.)



**McAdams, Nancy**

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**From:** Rep. Turner  
**Sent:** Tuesday, September 15, 2009 3:45 PM  
**To:** Rep. Danou  
**Subject:** Assembly Bills 241 and 269



Dear Rep. Danou:

I am considering scheduling both of the above bills for executive action in the Criminal Justice Committee on October 1, 2009. However, there have been a few concerns expressed about the bills and I would like your assurances that you have the votes for passage. I have been informed that Representative Pasch will vote 'No' on AB 269. Please let me know at your earliest convenience, as I would like to publish the meeting notice tomorrow. If you would like to have consideration on the bills delayed, I will be holding another hearing on October 15th. Thank you.

Sincerely,

State Rep. Robert Turner  
Chair, Assembly Criminal Justice Committee  
223 North Capitol  
P.O. Box 8953  
Madison, WI 53708-8953  
Phone: 608-266-0731  
Fax: 608-282-3661



**McAdams, Nancy**

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**From:** McAdams, Nancy  
**Sent:** Wednesday, September 16, 2009 3:37 PM  
**To:** Bahr, Dan  
**Cc:** Rep.Turner  
**Subject:** RE: Criminal Justice Public Hearing Published

Bob, FYI.  
N.

Thank you Dan. Based on this information, these bills will be placed on the executive notice for October 1st. And no, we have not heard anything from Rep. Friske about his amendment. Thank you for working hard getting this information today. I really appreciate it.

Nancy

Nancy McAdams  
Office of State Rep. Robert Turner  
223 North Capitol  
P.O. Box 8953  
Madison, WI 53708-8953  
Phone: 608-266-0731  
Fax: 608-282-3661

Thumbs  
up  
OK

AB 269

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**From:** Bahr, Dan  
**Sent:** Wednesday, September 16, 2009 3:26 PM  
**To:** Rep.Turner; McAdams, Nancy  
**Subject:** RE: Criminal Justice Public Hearing Published

Nancy,

We now have eight votes for AB 241 and nine votes for AB 269. Both should be ready. So far only Pasch is committed to voting NO on AB 269 and Kessler is the only person committed to voting NO on AB 241. Friske has an amendment on AB 241. Have you received that amendment? Chris is open to supporting it but would like to see it.

Thanks,

Dan

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**From:** Rep.Turner  
**Sent:** Wednesday, September 16, 2009 1:38 PM  
**To:** Inabnet, Kay; Vesperat, Jeryn; \*Legislative All Assembly; \*Legislative All Senate; Alice O'Connor; Ashley Berka; Dyke, Don; Pete Christianson; Rinehart, Mark W - DOJ; Schmidt, Melissa; Tonnon Byers, Anne; Vicky Jackson; Wheeler Report  
**Subject:** Criminal Justice Public Hearing Published

The Assembly Committee on Criminal Justice has scheduled a meeting for October 1, 2009 10:15 AM. << File: P20091001-12304.doc >>

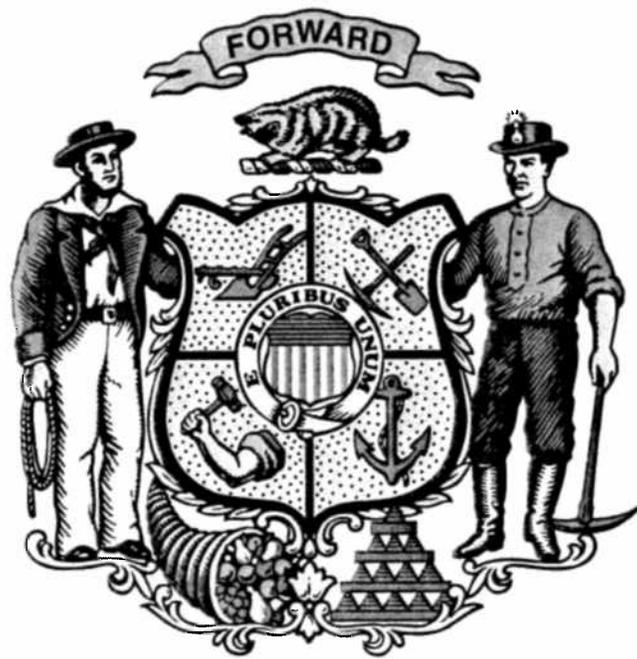


## 2006 LP Legislation

AB 241  
Folder

ORT =	ORGANIZED RETAIL CRIME	PCA =	PATTERN OF CRIMINAL ACTIVITY
TWIR =	THEFT WITH INTENT TO RESELL	TTF =	THIRD THEFT FELONY
TBIJ =	THEFT BY INTERNET JURISDICTION	BR-UPC =	BOGUS RECEIPTS & UPC LABELS
FM =	FLEA MARKET	TDD =	THEFT DETECTION DEVICES
SKIM =	SKIMMING	R&C =	RECEIVING & CONCEALING
T3E =	THEFT FROM 3 ESTABLISHMENTS	FTL =	FELONY THEFT LEVEL
AOM =	AFFIDAVIT OF MAIL	X =	BILL HAS PASSED
EE =	THEFT USING EMERGENCY EXITS	P =	BILL IS PENDING OR PROPOSED
		XP =	ENHANCING EXISTING LAW

STATE	ORC	TWIR	TBIJ	FM	SKIM	T3E	AOM	EE	PCA	TTF	BR/UPC	TDD	R&C	FTL
Alabama	X												X	\$ 500
Alaska														\$ 500
Arizona					X	X	X				X	X		\$ 1,000
Arkansas				X	X	X	X				X	X		\$ 500
California	P			P	X									\$ 400
Colorado	P	P		X			X					X		\$ 500
Connecticut				X			X					X		\$ 1,000
Delaware				X	X	X					X	X		\$ 1,000
Florida					X	X					X	X		\$ 300
Georgia				X	X	X				X	X			\$ 300
Hawaii														\$ 300
Idaho				X	X	X	X					X		\$ 1,000
Illinois	P	P	X	X	X			X			X	X		\$ 150
Indiana											X			ANY
Iowa				X	X	X	X				X	X		\$ 1,000
Kansas				X		X	X				X	X		\$ 1,000
Kentucky					X		X				X		X	\$ 300
Louisiana					X						X	X		\$ 300
Maine					X							X		\$ 1,000
Maryland							X					X		\$ 500
Massachusetts														\$ 250
Michigan												X		\$ 1,000
Minnesota							X					X		\$ 500
Mississippi					X	X	X				X	X	X	\$ 500
Missouri				X	X		X				X			\$ 500
Montana				X										\$ 1,000
Nebraska					X									\$ 500
Nevada				X	X						X	X		\$ 250
New Hampshire				X	X	X					X	X		\$ 500
New Jersey	X	X		X							X	X		\$ 250
New Mexico				X										\$ 250
New York														\$ 1,000
North Carolina				X	X					X	X	X		\$ 1,000
North Dakota							X					X		\$ 500
Ohio	P	P	P	X						P			X	\$ 500
Oklahoma									X		X			\$ 500
Oregon	P	P			X			P			X	X		\$ 750
Pennsylvania	P	P		X								X	X	\$ 2,000
Rhode Island				X			X					X		\$ 500
South Carolina				X							X			\$ 1,000
South Dakota														\$ 500
Tennessee				X										\$ 500
Texas					X						X	X		\$ 1,500
Utah	P	P		X	X							X		\$ 1,000
Vermont					P						P			\$ 100
Virginia		X		X	X		X					X		\$ 200
Washington	X	X		X	X	X	X	X	X		X	X		\$ 750
Washington DC														\$ 250
West Virginia				X	X		X				X	X		\$ 1,000
Wisconsin							X					X		\$ 2,500
Wyoming					X							X		\$ 1,000
FEDERAL	X													



**Organized Retail Theft  
Most Frequently Shoplifted Items in Rank Order**

AB 241  
Folder

<b>Product Name</b>	<b>UPC Number</b>
Advil tablet 50 ct	30573015030
Advil tablet 100 ct	30573015040
Aleve caplet 100 ct	32586610506
EPT Pregnancy Test single	5280032957
Gillette Sensor 10 ct	4740011505
Kodak 200 24 exp	4177124194
Similac w/iron powder - case	7007452276
Similac w/iron powder - single can	7007452275
Preparation H 12 ct	30573288310
Primatene tablet 24 ct	30573295210
Sudafed caplet 24 ct	30081076824
Tylenol caplet 100 ct	30045044909
Advil caplet 100 ct	30573016040
Aleve caplet 50 ct	32586610504
Correctol tablet 60 ct	4110007298
Excedrin tablet 100 ct	31981000166
Gillette Sensor/Excel 10 ct	4740011548
Gillette Sensor 15 ct	4740011507
Monistat 3	30062543001
Preparation H Ointment 1 oz	30573287110
Similac w/iron concentrate 13 oz	7007400414
Tavist-D decongestant tablet 16 ct	30043012116
Trojan ENZ 12 ct	2260093750
Tylenol gelcap 50 ct	30045012450
Tylenol gelcap 100 ct	30045012410
Tylenol tablet 100 ct	30045049960
Vagistat 1	31981000146
Advil caplet 50 ct	30573016030
Advil gelcap 50 ct	30573016530
Advil gelcap 24 ct	30573016520
Advil tablet 50 ct	30573015030
Aleve tablet 50 ct	32586610503
Anacin tablet 100 ct	30573020045
Centrum tablet 60 ct	30005423919
DayQuil liquicaps 20 ct	32390000875
Dimetap tablet 12 ct	30031227746
Duracell AA 4 pk	4133341501
Ecotrin tablet 100 ct	34969290120
Ecotrin tablet 60 ct	34969290360
Energizer AA 4 pk	3980001132
Excedrin tablet 50 ct	31981000165
Femstat 3 app	32586600528
Gillette Atra 10 ct	4740011710
Gyne-Lotrimin 3 app	30085110901
Monistat 7	30062542635
Motrin caplet 50 ct	30009348102
Motrin tablet 24 ct	30009346302
Oil of Olay 4 oz	7560900744
Preparation H Ointment 2 oz	30573287120
Schick Tracer FX 10 ct	1254700460
Gillette Sensor/Women 10 ct	4740011527
Sudafed tablet 24 ct	30081086524
Visine drops 1 oz	7430000308



## Organized Retail Crime: Information of Note

It is a crime that results in the loss of as much as \$30 billion in merchandise annually. It is a crime that has been linked to terrorist groups. It is a crime that affects the health of our children. The offense being described is organized retail crime, and often the criminals that perpetrate this serious and often dangerous offense get charged under laws meant for common shoplifters.

- Organized retail crime is not shoplifting. Petty shoplifting, as defined, is limited to items that are stolen for personal use or consumption. Organized retail crime involves professional crime rings that target popular household items, such as infant formula and over-the-counter medications, which can then easily be sold through fencing operations, flea markets, pawn shops and swap meets.
- The ill gotten gains from organized retail crime could be supporting terrorists. FBI Director Robert Mueller has said that "Middle Eastern criminal enterprises involved in the organized theft and resale of infant formula pose not only an economic threat, but a public health threat to infants, and a potential source of material support to a terrorist organization."
- State and federal laws need to be strengthened to adequately combat organized retail crime. In Steven Emerson's testimony before the United States Senate Committee of Banking, Housing, and Urban Affairs, he noted that "because state laws have few teeth and there is a lack of federal law addressing the issue, retail theft is becoming increasingly attractive as a high-profit, low-risk avenue of crime for criminal organizations and terrorist groups."
- The product integrity and safety of infant formula that is resold by organized retail crime rings is often at risk due to the questionable storage facilities used to house the products. According to Joe Williams, 2006 Chair of the National Advisory Council on Maternal, Infant and Fetal Nutrition, in Houston "one 'boosted' can of powdered Enfamil with Iron is sold by a shoplifter 'booster' for about \$3.00-\$5.00 per can to fences who operate mostly out of mini storage facilities." (Presentation to National Conference of WIC Directors: Organized Retail Theft of Infant Formula)
- Organized retail crime is an increasing criminal enterprise. According to *Loss Prevention Magazine*, "based on increases in organized retail theft cases investigated by retailers, the FBI, and other theft task forces, it is believed that this is an increasing criminal enterprise." (March 1, 2006, *Loss Prevention Magazine*)



## Organized Retail Crime: In the News

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### **Alabama**

The Clanton Advertiser: June 16, 2006 -

In Alabama, an outbreak of thefts have cost area Wal-Marts around \$8,000 in lost merchandise. Four individuals have been charged with theft of property second after the women were caught stealing baby formula from a Wal-Mart in Clanton. Detective Keith Maddox stated that this type of case is often associated with organized crime or terrorism funding.

### **Arizona**

CBS 5 News: April 26, 2005 - A major crime ring, believed to be led by Samih Fadl Jamal, based their operation in the valley area of Phoenix, Arizona. By selling stolen baby formula to stores around the U.S., the criminals made millions of dollars, and some of these ill gotten gains may have been shipped to the Middle East. Jamal was tried and found guilty on 20 criminal counts.

### **California**

The Business Press: May 22, 2006 -

Throughout California, boosters are swiping high-value products from grocery store shelves. Stolen products are hidden by thieves in their clothing or plastic bags lined with aluminum foil. The stolen products are then sold in California or other states in places such as swap meets or discount houses. These organized professionals move around the country knowing that, if caught, they are likely to face only misdemeanor charges.

### **Colorado**

DenverPost.com: March 23, 2006 - In Colorado, HB 1380 has drawn the support of area retailers. It is anticipated

that Safeway and King Soopers will testify in support of the legislation. According to Safeway spokesman Jeff Stroh, nationally organized retail theft rings cost Safeway \$100 million annually.

### **Connecticut**

The News-Times: December 5, 2005 - In

Southbury, a routine traffic stop uncovered \$19,000 worth of stolen merchandise. Trooper William Tate believes the three individuals involved in the crime are professional shoplifters. Professional shoplifters often work as a team, and they have been known to use booster bags and even feign pregnancy in order to hide merchandise. Arrests have been made in conjunction with this case.

### **Florida**

Orlando Sentinel: May 3, 2005 - In

Florida, three illegal immigrants plead guilty to stealing baby formula. Approximately \$3,000 worth of formula was stolen from a Mount Dora grocery store. One hundred and sixty-two cans of infant formula were found in a sport utility vehicle rented by the group.

### **Georgia**

Action News WSB-TV: May 15, 2006 - In

Smyrna, a manager at a Food Depot followed Matthew McLeroy, who left the Depot carrying a number of baby formula cans, to the parking lot and requested a receipt. At this point, McLeroy forcibly pulled the manager into his vehicle. The manager safely escaped from the vehicle, and McLeroy was arrested and charged with Kidnapping, Shoplifting, Fleeing and

Attempting to Elude. This confrontation took place only one week after an incident in Woodstock where suspects were caught on video stealing baby formula worth \$11,000.

#### **Illinois**

Rockford Register Star: June 30, 2006 - In June, six food and liquor shops in Rockford believed to be part of a theft ring were raided by police. Some of the items targeted by the thieves included baby formula, medicine and alcohol. The raid resulted in the arrest of 11 people, and a search warrant uncovered seven weapons and \$25,000 in cash. Additional criminal charges in this case are likely to be filed.

#### **Massachusetts**

The Boston Globe: June 22, 2006 - Before their arrest, it is estimated that the trio of alleged shoplifters stole more than \$20,000 in merchandise. Lieutenant Wayne Forster, Braintree Police Department, believes the group belongs to a larger crime ring of professional thieves that steal in groups of four or six. The suspects pled not guilty.

#### **Michigan**

Detroit Free Press: March 29, 2006 - Nine members of an alleged smuggling operation were arrested Wednesday, accused of taking part in a global scheme involving bootlegged cigarettes, phony Viagra and counterfeit tax stamps. It is suspected that the group was sending a cut of their illicit profits to Hizballah.

#### **Minnesota**

(AP) Fargo, N.D: May 11, 2006 - At a grocery store in Waite Park, Minnesota, two women were caught attempting to steal \$700 worth of disposable razors. This theft sparked an investigation that

began in August 2004 and is still ongoing. According to the women, they were in cahoots with a person in Moorhead who sold their stolen goods on eBay. A March 2006 search warrant filed in Clay County District Court allowed authorities to seize stolen merchandise valued at more than \$400,000. Everything from electronics to vacuum cleaners was recovered at the scene.

#### **Nebraska**

6 News Omaha WOWT.com: January 11, 2004 - In Nebraska, an officer recently witnessed three shoplifters in action at a Gordman's in LaVista. The suspects gave chase through the store but were ultimately arrested. Police Sgt. Jeremy Kinsey believes the suspects' arrest will break up one of a number of shoplifting rings.

#### **New Jersey**

PoliticsNJ.com: June 22, 2006 - In New Jersey, Senators Paul A. Sarlo and John A. Girgenti are sponsoring legislation that would create the crime of leader of an organized retail theft enterprise. According to Senator Girgenti, "organized retail crime is more serious than simple everyday shoplifting and that is why I am committed to fighting this growing problem." If enacted, the legislation would help ensure that individuals who are found guilty of leading or participating in an organized retail theft ring face prison time.

#### **North Carolina**

Daily Press: February 25, 2005 - In Wake County, Abdelaziz Agoujdad paid \$7,200 for 100 cases of infant formula being sold by an undercover officer. After the purchase, Agoujdad was tailed by the officer to his home where he stored the formula in his garage.

Agoujdad was indicted by a federal grand jury and will appear in court in March. Because it is expensive and easy to transport, infant formula is a popular black market product.

#### **Ohio**

WHIO-TV7 Dayton: June 20, 2006 - From the Ohio River to Piqua, a group of criminals are stealing products from CVS pharmacies on Interstate 75. Targeted items include Crest White Strips and vitamins. The three thieves frequently utilize store emergency exits. Tipp City Police are asking for those with information on the crimes to contact the department.

#### **Oklahoma**

Associated Press: May 28, 2005 - In Oklahoma City, approximately \$30,000 worth of baby formula is believed to have been stolen from area stores by four Mexican nationals. A storage unit was used to hold the 1,700 cans of infant formula taken by the group. According to Tom Freeman, state director of the Women, Infants and Children (WIC) program, these groups often repackage and resell stolen infant formula.

#### **Oregon**

The Oregonian: June 7, 2006 - In Portland, Special Agent Chris Frazier was recently honored for his efforts to clamp down on professional shoplifters in the area. Frazier spearheaded an investigation in 2001 that resulted in federal indictments for 49 individuals and the recovery of cash totaling \$1 million and merchandise worth \$7 million. Some of the items targeted by the boosters included KitchenAid mixers, Dyson vacuums and power tools.

#### **South Carolina**

The Island Packet: June 22, 2006 - At Hilton Head Island's Festival Centre, two men hit a Publix and a Wal-Mart, stealing approximately \$1,000 worth of items including beer, clothing and food. The men tried to get away with the stolen merchandise in their BMW but were stopped by a deputy. Mark Everette Lewis and Matthew McKelvia are in jail awaiting their court date next month.

#### **Texas**

The New York Times: November 8, 2005 - Across Northern Texas, Mohammed K. Ghali and his gang of thieves stole and ultimately resold approximately \$2,000 in merchandise a day. Some of the products stolen included infant formula, razor blades and diabetes test strips. In the Dallas area, more than 100 shoplifters were recruited to join Ghali's crime operation. Before the organized retail theft ring was stopped, it is estimated that the amount of merchandise stolen from retailers was in the \$5 million range.

#### **Utah**

The Daily Herald: June 9, 2005 - In Provo, two Albertson's supermarkets have moved baby formula cans behind the counter. The decision to move the formula was made because both cases and canisters of baby formula were being stolen. According to the Food Marketing Institute (FMI), in 2004 baby formula was ranked fourth in the list of most frequently shoplifted items from grocery stores.

#### **Virginia**

The Free Lance-Star Publishing Company: May 26, 2006 - Three thieves were apprehended by Stafford authorities after stealing cosmetics and

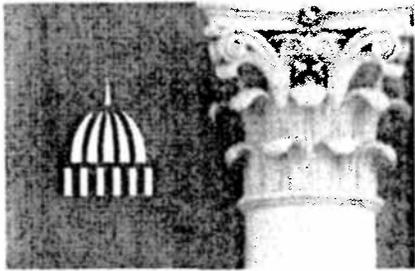
medication from a Rite Aid and two CVS stores. It was estimated that the retail theft spree netted the group \$1,200. A few of the stolen items included: Prilosec, Crest Whitening Strips and Rogaine. Sheriff Charles Jett believes the merchandise was being stolen to sell illegally at flea markets and on eBay.

**Washington**

Seattle Post Intelligencer: May 10, 2006 -  
In Western Washington, teams of

criminals have spread across the area to steal a number of targeted products, including Crest White Strips, Similac infant formula and Excedrin pain reliever. A couple of months can mean product losses in the hundreds of thousands for some supermarket chains. In Pierce County, an arrested shoplifter informed investigators that in Pierce and South King counties six crime groups were working.





# National Conference of State Legislatures LEGISBRIEF

BRIEFING PAPERS ON THE IMPORTANT ISSUES OF THE DAY

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## Organized Retail Crime

By Blake Harrison

*Organized retail crime costs businesses as much as \$30 billion annually.*

Organized retail crime is a growing enterprise and the most pressing security problem confronting retailers. It involves gangs of professional shoplifters who descend on different communities to steal large amounts of merchandise for resale. Many are keenly aware of the dollar amounts that trigger a felony charge and steal accordingly to limit their exposure to criminal penalties. Organized retail criminals differ from petty shoplifters who typically steal only for personal use or consumption. Organized retail crime costs businesses as much as \$30 billion annually—more than losses from auto theft, cargo theft, armed robbery and burglary combined. The crimes lead to inflated prices for consumers and, because stolen products do not go through normal sales channels, lead to an estimated \$1 billion in lost sales tax revenue for states.

*Small, expensive items often are stolen.*

Organized retail crime gangs frequently target small, expensive household items, such as over-the-counter drugs, baby formula and batteries. Professional shoplifters, also known as boosters, sell the merchandise to fencing operations, flea markets, pawn shops or through the Internet. The merchandise also may be repackaged and sold to illegitimate wholesalers who resell the products to unsuspecting supermarkets and other retailers.



Theft gangs have become increasingly brazen and sophisticated, carrying tools to remove security tags and foil-lined bags to prevent store alarms from sounding. They may use weapons and force to take carts full of merchandise directly past security guards to a waiting getaway car or van.

### State Action

*Seven states passed retail crime legislation in 2006.*

In 2006, seven states—Alabama, Colorado, Louisiana, New Hampshire, New Jersey, Vermont and Washington—passed organized retail crime legislation. The laws aggregate merchandise values over a certain time period, better classify types of retail theft, and allow more aggressive prosecution.

For example, Alabama HB 371 expanded first-degree property theft to include conspiracy shoplifting and fencing. Colorado HB 1380 requires sellers of certain items at flea markets and similar facilities to have proof of ownership. New Jersey SB 273 increased shoplifting penalties for theft as part of an organized retail theft enterprise. Vermont SB 170 defines retail theft as theft using counterfeit sales receipts or UPCs/barcodes or tools to deactivate or remove security tags. Penal-

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### Terms to Know

**Professional shoplifter/booster/sweeper:** A person who shoplifts for money, perhaps as his or her sole source of income, is a professional shoplifter, sometimes called a booster or a sweeper. The term sweeper describes the method the shoplifter uses when he or she clears an entire shelf of a targeted product (i.e., sweeps clean.)

**Fence:** Often the owner of a retail or discount store or the operator of a flea market stand who buys directly from professional shoplifters. Higher level fences deal in thefts of full loads of stolen cargo, illegally diverted goods, and goods acquired through credit card scams or heists.

**Return fraud:** Criminals take advantage of companies' return policies to receive cash or gift cards for stolen merchandise, often using forged receipts.

**Barcode fraud:** An advanced form of price tag switching. Bar codes, created from software found on the Internet, are printed onto stickers and placed on items in a store. Scammers are able to purchase expensive items at deep discounts.

**Gift card fraud:** Criminals copy gift card numbers from store shelves and make counterfeit cards or online purchases. Gift cards also are frequently purchased with stolen credit cards. Subsequent purchases can be made anonymously.

ties can reach 10 years' imprisonment, fines of \$5,000 or both. Washington HB 2704 established three new theft-related crimes—theft with intent to resell, organized retail theft, and retail theft with extenuating circumstances, such as use of theft devices or leaving through an emergency exit.

**Other Efforts.** Grocery and retail stores have created seminars and training programs to educate security guards, prosecutors and law enforcement personnel about organized retail crime behavior and prevention. Law enforcement agencies and retailers have collaborated on regional websites in an effort to fight organized retail crime by sharing information. Identifying crime patterns can help law enforcement agencies apprehend crime rings.

### Federal Action

At the federal level, organized retail crimes are most commonly prosecuted under the Interstate Transportation of Stolen Property Act. However, prosecution under this statute requires offenders to transport at least \$5,000 in stolen goods across state lines. Stolen merchandise frequently crosses state lines, but federal prosecutors typically do not prosecute unless the value of the goods reaches \$50,000. The Violence Against Women and Department of Justice Reauthorization Act, signed into law on Jan. 5, 2006, directs the FBI to develop an organized retail crime task force and a national database to help law enforcement agencies identify and thwart organized retail crimes. Program funding is set at \$5 million annually.

*Washington law established new theft-related crimes.*

*The FBI will develop a task force and national database.*

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