



2007 ASSEMBLY BILL 340

May 15, 2007 – Introduced by Representatives KLEEFISCH, KESTELL, OWENS, ALBERS, BIES, GRONEMUS, HAHN, JESKEWITZ, JORGENSEN, KAUFERT, KERKMAN, LEMAHIEU, LOTHIAN, NYGREN, A. OTT, J. OTT, VAN ROY, VOS and ZIEGELBAUER, cosponsored by Senators OLSEN, LEIBHAM, RISSER and ROESSLER. Referred to Committee on Criminal Justice.

1 **AN ACT to renumber** 946.88 (3); **to amend** 943.50 (4) (a), 943.50 (4) (bf) and
2 946.82 (4); and **to create** 134.715, 943.50 (4m) and 946.88 (3) (b) of the statutes;
3 **relating to:** retail theft, proof of ownership for certain sales, and providing
4 penalties.

Analysis by the Legislative Reference Bureau

Under current law, the penalty for retail theft is based on the value of the merchandise taken. Retail theft is a Class A misdemeanor if the value of the merchandise does not exceed \$2,500, a Class I felony if the value of the merchandise exceeds \$2,500 but does not exceed \$5,000, a Class H felony if the value of the merchandise exceeds \$5,000 but does not exceed \$10,000, and a Class G felony if the value of the merchandise exceeds \$10,000.

Also under current law a person may be convicted of engaging in organized crime, a Class E felony, if the person participates as part of an enterprise (which may be a group of associates) in the commission of at least three incidents of racketeering activity that have the same or similar intents, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics. “Racketeering activity” is the attempt, conspiracy to commit, or commission of various felonies including felony retail theft. The attorney general may prosecute organized crime. A district attorney may prosecute organized crime only with the prior written approval of the attorney general.

This bill makes retail theft of merchandise a Class I felony if the value of the merchandise exceeds \$500 but does not exceed \$5,000, and thus makes retail theft

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of merchandise valued at \$500 or more racketeering activity. The bill also makes retail theft of merchandise that is valued at less than \$500 a Class I felony if the actor commits the theft with intent to sell the merchandise. Finally, the bill provides that a district attorney may prosecute organized crime without the prior written approval of the attorney general if at least one of the incidents of racketeering activity is an attempt, conspiracy to commit, or commission of retail theft that occurred in a county served by the district attorney.

The bill also requires a person selling certain merchandise at a flea market or similar facility to have proof that the person owns the merchandise and to make the proof available to a law enforcement officer for inspection. The merchandise covered by the bill's requirements includes baby food, cosmetics, drugs, infant formula, and batteries. Under the bill, proof of ownership means all of the following: 1) the name, address, telephone number, and signature of the supplier of the merchandise; 2) the name and address of the person that received the merchandise; and 3) a description of the merchandise. Violators are subject to a fine up to \$500, up to six months imprisonment, or both.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 134.715 of the statutes is created to read:

2 **134.715 Proof of ownership required for sale. (1) DEFINITIONS.** In this
3 section:

4 (a) “Cosmetic” means an article intended to be applied to the human body for
5 cleansing, beautifying, or altering appearance, but does not include soap.

6 (b) “Device” has the meaning given in s. 450.01 (6).

7 (c) “Drug” has the meaning given in s. 450.01 (10).

8 (d) “Infant formula” means a food that is intended for consumption by infants.

9 **(2) PROOF REQUIRED.** (a) A person engaged in the sale of used or new goods at
10 a flea market or at a similar facility may not sell any of the following merchandise,
11 unless the person has proof that the person is the owner of the merchandise as
12 described in par. (b):

13 1. Baby food of a type usually consumed by children under 3 years of age.

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1 2. Cosmetics.

2 3. Devices.

3 4. Drugs.

4 5. Infant formula.

5 6. Batteries.

6 7. Razor blades.

7 (b) Proof of ownership means all of the following information:

8 1. The name, address, telephone number, and signature of the person that
9 supplied the merchandise or a representative of the person that supplied the
10 merchandise.

11 2. The name and address of the person that received the merchandise from the
12 person who supplied the merchandise.

13 3. A description of the product, including the quantity of the product received
14 from the person who supplied the merchandise.

15 (c) A person required to have proof of ownership under this section shall make
16 proof of ownership available for inspection by a law enforcement officer at any
17 reasonable time.

18 **(3) PENALTY.** A person who violates this section is guilty of a Class C
19 misdemeanor.

20 **SECTION 2.** 943.50 (4) (a) of the statutes is amended to read:

21 943.50 (4) (a) ~~A~~ Except as provided in sub. (4m), a Class A misdemeanor, if
22 the value of the merchandise does not exceed ~~\$2,500~~ \$500.

23 **SECTION 3.** 943.50 (4) (bf) of the statutes is amended to read:

24 943.50 (4) (bf) A Class I felony, if the value of the merchandise exceeds ~~\$2,500~~
25 \$500 but does not exceed \$5,000.

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1 **SECTION 4.** 943.50 (4m) of the statutes is created to read:

2 943.50 **(4m)** Whoever violates sub. (1m) (a), (b), (c), (d), (e), or (f) with intent
3 to sell the merchandise is guilty of a Class I felony if the value of the merchandise
4 does not exceed \$500.

5 **SECTION 5.** 946.82 (4) of the statutes is amended to read:

6 946.82 **(4)** “Racketeering activity” means any activity specified in 18 USC 1961
7 (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission
8 of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1),
9 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625, 221.0636, 221.0637,
10 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01,
11 940.19 (4) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.305, 940.31, 941.20
12 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d), or (2g),
13 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3)
14 (bf) to (e), 943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), 943.27, 943.28,
15 943.30, 943.32, 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and
16 (c), 943.50 (4) (bf), (bm), and (c) and (4m), 943.60, 943.70, 943.76, 943.81, 943.82,
17 943.83, 943.84, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c) and (e),
18 944.32, 944.33 (2), 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10,
19 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65,
20 946.72, 946.76, 946.79, 947.015, 948.05, 948.08, 948.12, and 948.30.

21 **SECTION 6.** 946.88 (3) of the statutes is renumbered 946.88 (3) (a).

22 **SECTION 7.** 946.88 (3) (b) of the statutes is created to read:

23 946.88 **(3)** (b) Notwithstanding par. (a), a district attorney may institute
24 criminal proceedings under ss. 946.80 to 946.88 without the prior written approval
25 of the attorney general if at least one of the incidents constituting a pattern of

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1 racketeering activity is an attempt, conspiracy to commit, or commission of a felony
2 under s. 943.50 that occurred in a county served by the district attorney.

3 (END)