

**A-Engrossed**  
**Senate Bill 331**

Ordered by the Senate April 19  
Including Senate Amendments dated April 19

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Oregon Grocery Association)

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Creates crime of organized retail theft. Punishes by maximum of 10 years' imprisonment, \$250,000 fine, or both. **Adds offense to provisions relating to racketeering activity.**

**A BILL FOR AN ACT**

1  
2 Relating to organized retail theft; creating new provisions; and amending ORS 166.715.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS chapter 164.**

5 **SECTION 2. (1) A person commits the crime of organized retail theft if, acting in concert**  
6 **with another person:**

7 (a) **The person violates ORS 164.015 or aids or abets the other person to violate ORS**  
8 **164.015;**

9 (b) **The subject of the theft is merchandise and the merchandise is taken from a**  
10 **mercantile establishment; and**

11 (c) **The aggregate value of the merchandise taken within any 90-day period exceeds \$5,000.**

12 **(2) As used in this section:**

13 (a) **"Merchandise" has the meaning given that term in ORS 30.870.**

14 (b) **"Mercantile establishment" has the meaning given that term in ORS 30.870.**

15 **(3) Organized retail theft is a Class B felony.**

16 **SECTION 3. ORS 166.715 is amended to read:**

17 166.715. As used in ORS 166.715 to 166.735, unless the context requires otherwise:

18 (1) "Documentary material" means any book, paper, document, writing, drawing, graph, chart,  
19 photograph, phonograph record, magnetic tape, computer printout, other data compilation from  
20 which information can be obtained or from which information can be translated into usable form,  
21 or other tangible item.

22 (2) "Enterprise" includes any individual, sole proprietorship, partnership, corporation, business  
23 trust or other profit or nonprofit legal entity, and includes any union, association or group of indi-  
24 viduals associated in fact although not a legal entity, and both illicit and licit enterprises and gov-  
25 ernmental and nongovernmental entities.

26 (3) "Investigative agency" means the Department of Justice or any district attorney.

27 (4) "Pattern of racketeering activity" means engaging in at least two incidents of racketeering

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 activity that have the same or similar intents, results, accomplices, victims or methods of commis-  
2 sion or otherwise are interrelated by distinguishing characteristics, including a nexus to the same  
3 enterprise, and are not isolated incidents, provided at least one of such incidents occurred after  
4 November 1, 1981, and that the last of such incidents occurred within five years after a prior inci-  
5 dent of racketeering activity. Notwithstanding ORS 131.505 to 131.525 or 419A.190 or any other  
6 provision of law providing that a previous prosecution is a bar to a subsequent prosecution, conduct  
7 that constitutes an incident of racketeering activity may be used to establish a pattern of  
8 racketeering activity without regard to whether the conduct previously has been the subject of a  
9 criminal prosecution or conviction or a juvenile court adjudication, unless the prosecution resulted  
10 in an acquittal or the adjudication resulted in entry of an order finding the youth not to be within  
11 the jurisdiction of the juvenile court.

12 (5) "Person" means any individual or entity capable of holding a legal or beneficial interest in  
13 real or personal property.

14 (6) "Racketeering activity" includes conduct of a person committed both before and after the  
15 person attains the age of 18 years, and means to commit, to attempt to commit, to conspire to  
16 commit, or to solicit, coerce or intimidate another person to commit:

17 (a) Any conduct that constitutes a crime, as defined in ORS 161.515, under any of the following  
18 provisions of the Oregon Revised Statutes:

19 (A) ORS 59.005 to 59.451, 59.660 to 59.830, 59.991 and 59.995, relating to securities;

20 (B) ORS 162.015, 162.025 and 162.065 to 162.085, relating to bribery and perjury;

21 (C) ORS 162.235, 162.265 to 162.305, 162.325, 162.335, 162.355 and 162.365, relating to obstructing  
22 governmental administration;

23 (D) ORS 162.405 to 162.425, relating to abuse of public office;

24 (E) ORS 162.455, relating to interference with legislative operation;

25 (F) ORS 163.095 to 163.115, 163.118, 163.125 and 163.145, relating to criminal homicide;

26 (G) ORS 163.160 to 163.205, relating to assault and related offenses;

27 (H) ORS 163.225 and 163.235, relating to kidnapping;

28 (I) ORS 163.275, relating to coercion;

29 (J) ORS 163.670 to 163.693, relating to sexual conduct of children;

30 (K) ORS 164.015, 164.043, 164.045, 164.055, 164.057, 164.075 to 164.095, 164.125, 164.135, 164.140,  
31 164.215, 164.225 and 164.245 to 164.270[,] **and section 2 of this 2007 Act**, relating to theft, burglary,  
32 criminal trespass and related offenses;

33 (L) ORS 164.315 to 164.335, relating to arson and related offenses;

34 (M) ORS 164.345 to 164.365, relating to criminal mischief;

35 (N) ORS 164.395 to 164.415, relating to robbery;

36 (O) ORS 164.865, 164.875 and 164.868 to 164.872, relating to unlawful recording or labeling of a  
37 recording;

38 (P) ORS 165.007 to 165.022, 165.032 to 165.042 and 165.055 to 165.070, relating to forgery and  
39 related offenses;

40 (Q) ORS 165.080 to 165.109, relating to business and commercial offenses;

41 (R) ORS 165.485 to 165.515, 165.540 and 165.555, relating to communication crimes;

42 (S) ORS 166.180, 166.190, 166.220, 166.250, 166.270, 166.275, 166.410, 166.450 and 166.470, relating  
43 to firearms and other weapons;

44 (T) ORS 164.377 (2) to (4), as punishable under ORS 164.377 (5)(b), 167.007 to 167.017, 167.062 to  
45 167.080, 167.087, 167.090, 167.122 to 167.137, 167.147, 167.164, 167.167, 167.212, 167.355, 167.365,

1 167.370, 167.428, 167.431 and 167.439, relating to prostitution, obscenity, gambling, computer crimes  
2 involving the Oregon State Lottery, animal fighting, forcible recovery of a fighting bird and related  
3 offenses;

4 (U) ORS 171.990, relating to legislative witnesses;

5 (V) ORS 260.575 and 260.665, relating to election offenses;

6 (W) ORS 314.075, relating to income tax;

7 (X) ORS 180.440 (2) and ORS chapter 323, relating to cigarette and tobacco products taxes and  
8 the directory developed under ORS 180.425;

9 (Y) ORS 411.630, 411.675, 411.690 and 411.840, relating to public assistance payments, and ORS  
10 411.990 (2) and (3);

11 (Z) ORS 462.140, 462.415 and 462.420 to 462.520, relating to racing;

12 (AA) ORS 463.995, relating to boxing and wrestling, as defined in ORS 463.015;

13 (BB) ORS 471.305, 471.360, 471.392 to 471.400, 471.403, 471.404, 471.405, 471.425, 471.442, 471.445,  
14 471.446, 471.485, 471.490 and 471.675, relating to alcoholic liquor, and any of the provisions of ORS  
15 chapter 471 relating to licenses issued under the Liquor Control Act;

16 (CC) ORS 475.005 to 475.285 and 475.840 to 475.980, relating to controlled substances;

17 (DD) ORS 480.070, 480.210, 480.215, 480.235 and 480.265, relating to explosives;

18 (EE) ORS 819.010, 819.040, 822.100, 822.135 and 822.150, relating to motor vehicles;

19 (FF) ORS 658.452 or 658.991 (2) to (4), relating to farm labor contractors;

20 (GG) ORS chapter 706, relating to banking law administration;

21 (HH) ORS chapter 714, relating to branch banking;

22 (II) ORS chapter 716, relating to mutual savings banks;

23 (JJ) ORS chapter 723, relating to credit unions;

24 (KK) ORS chapter 726, relating to pawnbrokers;

25 (LL) ORS 166.382 and 166.384, relating to destructive devices;

26 (MM) ORS 165.074;

27 (NN) ORS 59.840 to 59.980, relating to mortgage bankers and mortgage brokers;

28 (OO) ORS chapter 496, 497 or 498, relating to wildlife;

29 (PP) ORS 163.355 to 163.427, relating to sexual offenses;

30 (QQ) ORS 166.015, relating to riot;

31 (RR) ORS 166.155 and 166.165, relating to intimidation;

32 (SS) ORS chapter 696, relating to real estate and escrow;

33 (TT) ORS chapter 704, relating to outfitters and guides;

34 (UU) ORS 165.692, relating to making a false claim for health care payment;

35 (VV) ORS 162.117, relating to public investment fraud;

36 (WW) ORS 164.170 or 164.172;

37 (XX) ORS 647.140, 647.145 or 647.150, relating to trademark counterfeiting;

38 (YY) ORS 164.877;

39 (ZZ) ORS 167.312 and 167.388;

40 (AAA) ORS 164.889; or

41 (BBB) ORS 165.800.

42 (b) Any conduct defined as “racketeering activity” under 18 U.S.C. 1961 (1)(B), (C), (D) and (E).

43 (7) “Unlawful debt” means any money or other thing of value constituting principal or interest  
44 of a debt that is legally unenforceable in the state in whole or in part because the debt was incurred  
45 or contracted:

- 1 (a) In violation of any one of the following:
- 2 (A) ORS chapter 462, relating to racing;
- 3 (B) ORS 167.108 to 167.164, relating to gambling; or
- 4 (C) ORS 82.010 to 82.170, relating to interest and usury.
- 5 (b) In gambling activity in violation of federal law or in the business of lending money at a rate
- 6 usurious under federal or state law.
- 7 (8) Notwithstanding contrary provisions in ORS 174.060, when this section references a statute
- 8 in the Oregon Revised Statutes that is substantially different in the nature of its essential provisions
- 9 from what the statute was when this section was enacted, the reference shall extend to and include
- 10 amendments to the statute.

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