



CLACKAMAS COUNTY SHERIFF

Sheriff Angela Brandenburg

Jesse Ashby, Undersheriff

Lee Eby, Undersheriff

Brad O'Neil, Undersheriff

RE: Testimony in Support of SB 275

Members of the Senate Judiciary Committee:

My name is Detective Michael Zacher of the Clackamas County Sheriff's Office (CCSO). I am assigned to the Property Crimes Unit at CCSO, I am the law enforcement president of the Organized Retail Crime Association of Oregon, I am a member of the Oregon Organized Retail Crime Task Force and was also a member of the Rules Advisory Committee governing the development of the Organized Retail Theft Grant Program by the Oregon Criminal Justice Commission. I am here with the full support of Clackamas County Sheriff Angela Brandenburg.

I offer my testimony in support of SB 275 which I believe will continue to provide law enforcement, District Attorney's offices and retail partners the ability to combat organized retail crime in the State of Oregon.

In 2023, I had the opportunity to testify before members of this committee regarding how pervasive organized retail crime had become within the State of Oregon, the impact of that crime upon the retail community and the need for statutory changes and funding to support law enforcement combatting that retail crime. This and the work of many others ultimately contributed to the passage of SB 319, SB 340 and SB 900. With the passage of SB 340, necessary changes were made to the statute of Organized Retail Theft (ORT) including expanding the period of aggregation of conduct from 90 days to 180 days, as well as making ORT eligible for Repeat Property Offender status.

The ORT Task Force comes before this committee again for purpose of attempting to amend the crime of Organized Retail Theft to address a major statutory barrier: proof of evidence that a person is acting in concert with another. Organized Retail Theft currently states the following:

- 1) A person commits the crime of organized retail theft if, *acting in concert with another person*:
 - a) The person violates ORS 164.015 or aids or abets the other person to violate ORS 164.015;
 - b) The subject of the theft is merchandise and the merchandise is taken from a mercantile establishment; and
 - c) The aggregate value of the merchandise taken within any 180-day period exceeds \$5,000.

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As written the current statute requires investigators to identify who the booster is acting in concert with, or to identify a fencing operation they are selling the stolen merchandise to. Without this evidence we are unable to currently charge the individual with Organized Retail Theft.

Based upon my training and experience as a property crimes investigator and conducting numerous retail crime missions throughout the Portland Metro Area, I know a substantial amount of retail crime is committed by boosters operating individually and not in concert with another person. I know these boosters are commonly driven by addiction and steal large amounts of merchandise for the purpose of resale in order to obtain funds to purchase more controlled substances. These boosters commonly demonstrate organization by identifying merchandise that is in demand to consumers such as tools, apparel, over-the-counter medications, home cleaning supplies, baby formula, home appliances, electronics and many other items; boosters commonly set up profiles via third party applications and online marketplaces where the stolen items are then advertised for sale; boosters commonly set up accounts via peer to peer payment accounts such as Venmo and CashApp where the transactions are made electronically. Based upon many investigations, I know these boosters have been able to sustain their criminal activities while essentially functioning as a sole proprietorship. I believe this organization and sole proprietorship conducted by many boosters fits the spirit of committing Organized Retail Theft.

SB 275 also proposes the amendment of Theft in the First Degree to address the dangerous use of emergency exit pushouts to facilitate theft and placing retail customers at great risk when emergency alarms go off and they believe there is a real fire, medical or active threat that requires their immediate attention.

As a means of addressing retail crime, individual retailers have begun placing uniformed security or store employees at lawful entrances and exits to inspect purchase receipts as a means of deterring those committing theft. As a result, retailers have seen an increase in retail crime suspects, as well as those believed to be committing organized retail theft thwarting security measures by leaving through emergency exits. Boosters and those committing organized retail theft commonly employ this tactic by having getaway drivers posted outside of stores near these emergency exits. This is commonly done so to facilitate the commission of thefts and reduce the possibility of being located and contacted by law enforcement and store asset protection.

These emergency exits are commonly alarmed for the purpose of alerting store management, employees and customers of an emergency situation such as an active fire, active threat situation or medical issue. During any of these incidents, a substantial risk is created for employees and customers as they flee to safety.

In the event a fire exit alarm is activated by a retail theft suspect, these alerts create that same risk as an actual emergency by instilling panic in employees and customers to flee from the store, when in actuality the alert is used as a means to conceal theft. This is the effective equivalent to yelling fire in a crowded movie theater, however. The State of Washington has addressed this real threat by enacting their statute of Retail Theft with Special Circumstances, RCW 9A.56.360:

- (1) A person commits retail theft with special circumstances if he or she commits theft of property from a mercantile establishment with one of the following special circumstances:
- a) To facilitate the theft, the person leaves the mercantile establishment through a designated emergency exit;

I believe those who commit theft in a manner that subjects others to a substantial risk should be subject to enhanced penalties for that conduct. Amending Theft in the First Degree to include emergency exit pushouts will address this conduct and reduce the risk to retail employees and customers posed by organized retail theft suspects.

Based upon my testimony and that of fellow members of the Organized Retail Crime Task Force before you today, I respectfully ask for your support of SB 275 and the amendment of Organized Retail Theft and Theft in the First Degree.

Respectfully,

A handwritten signature in blue ink, appearing to read 'M. Zacher', is written below the text 'Respectfully,'.

Detective Michael Zacher
Clackamas County Sheriff's Office