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SECOND REPRINT

A.B. 50

ASSEMBLY BILL NO. 50—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 16, 2022

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the prosecution of certain crimes. (BDR 15-429)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to crimes; revising provisions relating to the prosecution of certain crimes; making an appropriation to be used for the prosecution of retail crime; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the crime of organized retail theft, which is defined as committing, either alone or with any other person or persons, a series of thefts of retail merchandise against one or more merchants, either on the premises of a merchant or through the use of an Internet or network site, with the intent to: (1) return the merchandise to the merchant for value; or (2) resell, trade or barter the merchandise for value in any manner. (NRS 205.08345) **Section 1** of this bill authorizes the Attorney General to investigate and prosecute the crime of organized retail theft and any other crime committed in the course of committing organized retail theft.

Existing law also prohibits a person from selling, displaying or advertising, or possessing with the intent to sell, goods that have an unauthorized or counterfeit label or trademark. (NRS 205.210) **Section 2** of this bill authorizes the Attorney General to investigate and prosecute such a crime and any other crime that is committed in the course of committing such a crime.

Additionally, existing law provides that it is a crime for a person, in the course of an enterprise or occupation, knowingly and with the intent to defraud, to engage in an act, practice or course of business or employ a device, scheme or artifice which operates or would operate as a fraud or deceit upon a person by means of a false representation or omission of a material fact that: (1) the person knows to be false or omitted; (2) the person intends another to rely on; and (3) results in a loss to any person who relied on the false representation or omission, in at least two transactions that have the same or similar pattern, intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing



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characteristics and are not isolated incidents within 4 years and in which the aggregate loss or intended loss is more than \$1,200. (NRS 205.377) **Section 3** of this bill authorizes the Attorney General to investigate and prosecute such a crime and any other crime committed in the course of committing such a crime.

Section 3.5 of this bill makes an appropriation to the Office of the Attorney General to be used for personnel, operating, travel and information technology expenses relating to the prosecution of retail crime.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 205.08345 is hereby amended to read as follows:

205.08345 1. A person who knowingly participates directly or indirectly in or engages in conduct with the intent to further an organized retail theft is guilty of a category B felony and shall be punished by imprisonment in the state prison for:

(a) If the aggregated value of the property or services involved in all thefts committed in the organized retail theft in this State during a period of 120 days is at least \$3,500 but less than \$10,000, a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.

(b) If the aggregated value of the property or services involved in all thefts committed in the organized retail theft in this State during a period of 120 days is \$10,000 or more, a minimum term of not less than 2 years and a maximum term of not more than 15 years, and by a fine of not more than \$20,000.

2. In addition to any other penalty, the court shall order a person who violates this section to pay restitution.

3. For the purposes of this section, in determining the aggregated value of the property or services involved in all thefts committed in the organized retail theft in this State during a period of 120 days:

(a) The amount involved in a single theft shall be deemed to be the highest value, by any reasonable standard, of the property or services which are obtained; and

(b) The amounts involved in all thefts committed by all participants in the organized retail theft must be aggregated.

4. In any prosecution for a violation of this section, the violation shall be deemed to have been committed and may be prosecuted in any jurisdiction in this State in which any theft committed by any participant in the organized retail theft was committed, regardless of whether the defendant was ever physically present in that jurisdiction.



5. *The Attorney General may investigate and prosecute a violation of this section and any other statute violated in the course of committing a violation of this section.*

6. As used in this section:

(a) "Internet or network site" has the meaning ascribed to it in NRS 205.4744.

(b) "Merchant" has the meaning ascribed to it in NRS 597.850.

(c) "Organized retail theft" means committing, either alone or with any other person or persons, a series of thefts of retail merchandise against one or more merchants, either on the premises of a merchant or through the use of an Internet or network site, in this State with the intent to:

(1) Return the merchandise to the merchant for value; or

(2) Resell, trade or barter the merchandise for value in any manner, including, without limitation, through the use of an Internet or network site.

Sec. 2. NRS 205.210 is hereby amended to read as follows:

205.210 1. A person shall not knowingly sell, display or advertise, or have in his or her possession with intent to sell, any goods, wares, merchandise, mixture, preparation or compound having affixed thereto any label, trademark, term, design, device or form of advertisement lawfully filed for record in the Office of the Secretary of State by any person, corporation, association or union, or the exclusive right to the use of which is guaranteed to the person, corporation, association or union under the laws of the United States, if the label, trademark, term, design, device or form of advertisement has been used or affixed thereto without the written authority of the person, corporation, association or union, or having affixed thereto any forged or counterfeit representation, likeness, similitude, copy or imitation thereof.

2. Except as otherwise provided in subsection 3, a violation of the provisions of subsection 1 is a misdemeanor.

3. A violation of the provisions of subsection 1 is:

(a) A category E felony if:

(1) The person committing the violation has been previously convicted one time for a violation of the provisions of subsection 1; or

(2) The goods, wares, merchandise, mixture, preparation or compound with respect to which the person violated the provisions of subsection 1:

(I) Consists of at least 100 but less than 1,000 salable units; or

(II) Has a retail value of at least \$1,000 but less than \$10,000.

(b) A category D felony if:



(1) The person committing the violation has been previously convicted two or more times for a violation of the provisions of subsection 1; or

(2) The goods, wares, merchandise, mixture, preparation or compound with respect to which the person violated the provisions of subsection 1:

(I) Consists of at least 1,000 salable units; or

(II) Has a retail value of at least \$10,000.

4. For the purposes of this section, in accordance with the provisions of NRS 47.230, it may be reasonably inferred that a person intends to sell goods, wares, merchandise, a mixture, a preparation or a compound if the person knowingly possesses at least 26 salable units of the goods, wares, merchandise, mixture, preparation or compound.

5. *The Attorney General may investigate and prosecute a violation of this section and any other statute violated in the course of committing a violation of this section.*

6. As used in this section, "retail value" means:

(a) If the item that is identified by a label, trademark, term, design, device or form of advertisement in violation of subsection 1 is a component of a finished product with multiple components, the price at which the person in violation of subsection 1 regularly sells the finished product; or

(b) For any other item that is identified by a label, trademark, term, design, device or form of advertisement in violation of subsection 1, the price at which the person in violation of subsection 1 regularly sells the item.

Sec. 3. NRS 205.377 is hereby amended to read as follows:

205.377 1. A person shall not, in the course of an enterprise or occupation, knowingly and with the intent to defraud, engage in an act, practice or course of business or employ a device, scheme or artifice which operates or would operate as a fraud or deceit upon a person by means of a false representation or omission of a material fact that:

(a) The person knows to be false or omitted;

(b) The person intends another to rely on; and

(c) Results in a loss to any person who relied on the false representation or omission,

↪ in at least two transactions that have the same or similar pattern, intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated incidents within 4 years and in which the aggregate loss or intended loss is more than \$1,200.

2. Each act which violates subsection 1 constitutes a separate offense.



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3. A person who violates subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$10,000.

4. In addition to any other penalty, the court shall order a person who violates subsection 1 to pay restitution.

5. A violation of this section constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

6. *The Attorney General may investigate and prosecute a violation of this section and any other statute violated in the course of committing a violation of this section.*

7. As used in this section, "enterprise" has the meaning ascribed to it in NRS 207.380.

Sec. 3.5. 1. There is hereby appropriated from the State General Fund to the Office of the Attorney General to be used for personnel, operating, travel and information technology expenses relating to the prosecution of retail crime the following sums:

For the Fiscal Year 2023-2024..... \$125,731

For the Fiscal Year 2024-2025..... \$157,832

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of appropriated money remaining must not be spent for any purpose after September 20, 2024, and September 19, 2025, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 20, 2024, and September 19, 2025, respectively.

Sec. 4. This act becomes effective on July 1, 2023.

