

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 464

Introduced by Bosn, 25.

Read first time January 21, 2025

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to crimes and offenses; to amend section
2 28-101, Revised Statutes Cumulative Supplement, 2024; to prohibit
3 organized retail crimes as prescribed; to define terms; to provide
4 for penalties; to harmonize provisions; and to repeal the original
5 section.
6 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 28-101, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 28-101 Sections 28-101 to 28-1357, 28-1601 to 28-1603, and 28-1701
4 and sections 2 to 5 of this act shall be known and may be cited as the
5 Nebraska Criminal Code.

6 **Sec. 2.** For purposes of sections 2 to 5 of this act:

7 (1) Aggregated retail market value means the total combined value of
8 all retail merchandise involved in a transaction, series of transactions,
9 occurrence, series of occurrences, or course of conduct which constitutes
10 a violation of this section. Such value shall be calculated based on the
11 price at which the retail merchandise would ordinarily be sold by a
12 retailer in the ordinary course of business. If the value cannot be
13 reasonably ascertained in such manner, the value shall be calculated
14 based on the cost of replacing the retail merchandise within a reasonable
15 period after a violation of this section;

16 (2) Organized retail crime means the theft of retail merchandise
17 with the intent or purpose of:

18 (a) Reselling, distributing, or otherwise reentering the retail
19 merchandise in commerce; or

20 (b) Transferring the stolen retail merchandise to another retailer
21 or to any other person in exchange for anything of value;

22 (3) Retail commerce means the sale of articles, products,
23 commodities, items, or components to the public for use or consumption
24 rather than for resale;

25 (4) Retail merchandise means any article, product, commodity, item,
26 or component intended to be sold in retail commerce; and

27 (5) Retailer means a person that sells or facilitates the sale of
28 retail merchandise.

29 **Sec. 3.** A person commits the offense of organized retail crime when
30 that person, acting alone or in association with another person, does any
31 of the following:

1 (1) Knowingly commits an organized retail crime;

2 (2) Organizes, supervises, finances, or otherwise manages or assists
3 another person in committing an organized retail crime;

4 (3) Removes, destroys, deactivates, or knowingly evades any
5 component of an antishoplifting or inventory-control device to prevent
6 the activation of that device or to facilitate another person in
7 committing an organized retail crime;

8 (4) Conspires with another person to commit an organized retail
9 crime;

10 (5) Receives, purchases, or possesses retail merchandise for sale or
11 resale if a reasonable person would know such retail merchandise to be
12 stolen;

13 (6) Uses any artifice, instrument, container, device, or other
14 article to facilitate the commission of an organized retail crime act; or

15 (7) Knowingly causes a fire exit alarm to sound or otherwise
16 activate, or deactivates or prevents a fire exit alarm from sounding, in
17 the commission of an organized retail crime or to facilitate the
18 commission of an organized retail crime by another person.

19 **Sec. 4.** (1) A violation of section 3 of this act shall be a:

20 (a) Class IIA felony when the aggregated retail market value of the
21 retail merchandise involved is five thousand dollars or more;

22 (b) Class IV felony when the aggregated retail market value of the
23 retail merchandise involved is one thousand five hundred dollars or more
24 but less than five thousand dollars; and

25 (c) Class I misdemeanor when the aggregated retail market value of
26 the retail merchandise involved is more than five hundred dollars but
27 less than one thousand five hundred dollars.

28 (2) A second or subsequent conviction under subdivision (1)(c) of
29 this section shall be a Class IV felony.

30 (3) For a prior conviction to be used to enhance the penalty under
31 subsection (2) of this section, the prior conviction must have occurred

1 no more than ten years prior to the date of commission of the current
2 offense.

3 (4) The aggregated retail market value of amounts taken pursuant to
4 one organized retail crime scheme from one or more persons may be
5 aggregated in the same indictment, information, or complaint in
6 determining the classification of the offense, except that amounts shall
7 not be aggregated into more than one offense.

8 (5) In any prosecution of a violation of section 3 of this act,
9 aggregate retail market value shall be an essential element of the
10 offense that must be proved beyond a reasonable doubt.

11 **Sec. 5.** It is not a defense to a violation of section 3 of this act
12 that the retail merchandise was not stolen, embezzled, or converted
13 property at the time of the violation if the retail merchandise was
14 explicitly represented as being stolen, embezzled, or converted property.

15 **Sec. 6.** Original section 28-101, Revised Statutes Cumulative
16 Supplement, 2024, is repealed.