

CHAPTER 39

AN ACT concerning retail theft, amending and supplementing various parts of the statutory law, and making an appropriation.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 7 of P.L.1981, c.167 (C.2C:20-7.1) is amended to read as follows:

C.2C:20-7.1 Fencing.

7. Fencing. a. Possession of altered property. Any dealer in property who knew or should have known that the identifying features such as serial numbers and permanently affixed labels of property in his possession have been removed or altered without the consent of the manufacturer is guilty of possession of altered property. It is a defense to a prosecution under this subsection that a person lawfully possesses the usual indicia of ownership in addition to mere possession.

b. (1) Dealing in stolen property. A person is guilty of dealing in stolen property if he traffics in, or initiates, organizes, plans, finances, directs, manages or supervises trafficking in stolen property, including through the use of an online platform via any electronic device or through a social media site. This paragraph shall not apply to dealing in stolen property consisting of a domestic companion animal, addressed in paragraph (2) of this subsection.

(2) Dealing in stolen domestic companion animals. A person is guilty of dealing in stolen domestic companion animals if he traffics in, or initiates, organizes, plans, finances, directs, manages or supervises trafficking in stolen property consisting of a domestic companion animal.

c. (1) For any violation of this section, other than dealing in stolen domestic companion animals, the value of the property involved in the violation shall be determined by the trier of fact for the purpose of determining the grade of the offense, and the value of the property involved in the violation may be aggregated in determining the grade of the offense where the acts or conduct constituting a violation were committed pursuant to one scheme or course of conduct, whether from the same person or several persons.

(2) A violation of this section for dealing in stolen domestic companion animals constitutes a crime of the third degree.

d. It is an affirmative defense to a prosecution under this section that the actor:

- (1) Was unaware that the property or service was that of another;
- (2) Acted under an honest claim of right to the property or service involved or that he had a right to acquire or dispose of it as he did.

e. In addition to the presumptions contained in subsection b. of N.J.S.2C:20-7, the following presumptions are available in the prosecution for a fencing offense:

(1) Proof of the purchase or sale of property at a price substantially below its fair market value, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property knew that it had been stolen;

(2) Proof of the purchase or sale of property by a dealer in that property, out of the regular course of business, or without the usual indicia of ownership other than mere possession, or the property or the job lot of which it is a part was bought, received, possessed or controlled in broken succession of title, so that it cannot be traced, by appropriate documents, in unbroken succession to the manufacturer, in all cases where the regular course of business reasonably indicates records of purchase, transfer or sale, unless satisfactorily explained, gives rise to an inference that the person buying or selling the property knew that it had been stolen; and

(3) Proof that a person buying or selling property of the sort received obtained such property without having ascertained by reasonable inquiry that the person from whom he

obtained it had a legal right to possess or control it gives rise to an inference that such person knew that it had been stolen.

C.2C:20-7.3 Fostering the sale of stolen property, parameters; definitions.

2. a. As used in P.L.2025, c.39 (C.2C:20-7.3 et al.):

“Online platform” means any public-facing Internet website, Internet web application, or computer or mobile application, including a social networking website or publication.

“Sale” means any sale, transfer, exchange, barter, or offer for sale and distribution, in any manner or by any means whatsoever, including, but not limited to, via an online platform.

b. A person is guilty of fostering the sale of stolen property, a disorderly persons offense, if the person, acting alone or in concert with another person or persons, advertises or otherwise assists, by any means, including through personal contact or through the use of an online platform or any other communications channel or medium, in the sale of property of another knowing that it has been stolen or reasonably believing that it is stolen.

c. The following presumptions are available in the prosecution of an offense under this section of fostering the sale of stolen property:

(1) Proof of the property being advertised for sale at a price substantially below its fair market value, unless satisfactorily explained, gives rise to an inference that the person advertising or otherwise assisting in the sale of the property knew that it is stolen or reasonably believed that the property is stolen; and

(2) Proof that a person advertised or otherwise assisted in the sale of the property without having ascertained by reasonable inquiry that the person offering the property for sale had a legal right to possess or control it gives rise to an inference that such person knew that it is stolen or reasonably believed that it is stolen.

d. Nothing in this section shall be construed to preclude or limit the prosecution or conviction of any person for any other crime or offense.

3. N.J.S.2C:12-1 is amended as follows:

Assault.

2C:12-1. Assault. a. Simple assault. A person is guilty of assault if the person:

(1) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; or

(2) Negligently causes bodily injury to another with a deadly weapon; or

(3) Attempts by physical menace to put another in fear of imminent serious bodily injury.

Simple assault is a disorderly persons offense unless committed in a fight or scuffle entered into by mutual consent, in which case it is a petty disorderly persons offense.

b. Aggravated assault. A person is guilty of aggravated assault if the person:

(1) Attempts to cause serious bodily injury to another, or causes injury purposely or knowingly or under circumstances manifesting extreme indifference to the value of human life recklessly causes such injury; or

(2) Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon; or

(3) Recklessly causes bodily injury to another with a deadly weapon; or

(4) Knowingly under circumstances manifesting extreme indifference to the value of human life points a firearm, as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of another, whether or not the actor believes it to be loaded; or

(5) Commits a simple assault as defined in paragraph (1), (2), or (3) of subsection a. of this section upon:

(a) Any law enforcement officer acting in the performance of the officer's duties while in uniform or exhibiting evidence of authority or because of the officer's status as a law enforcement officer; or

(b) Any paid or volunteer firefighter acting in the performance of the firefighter's duties while in uniform or otherwise clearly identifiable as being engaged in the performance of the duties of a firefighter; or

(c) Any person engaged in emergency first-aid or medical services acting in the performance of the person's duties while in uniform or otherwise clearly identifiable as being engaged in the performance of emergency first-aid or medical services; or

(d) Any school board member, school administrator, teacher, school bus driver, or other employee of a public or nonpublic school or school board while clearly identifiable as being engaged in the performance of the person's duties or because of the person's status as a member or employee of a public or nonpublic school or school board or any school bus driver employed by an operator under contract to a public or nonpublic school or school board while clearly identifiable as being engaged in the performance of the person's duties or because of the person's status as a school bus driver; or

(e) Any employee of the Division of Child Protection and Permanency while clearly identifiable as being engaged in the performance of the employee's duties or because of the status as an employee of the division; or

(f) Any justice of the Supreme Court, judge of the Superior Court, judge of the Tax Court or municipal judge while clearly identifiable as being engaged in the performance of judicial duties or because of the status as a member of the judiciary; or

(g) Any operator of a motorbus or the operator's supervisor or any employee of a rail passenger service while clearly identifiable as being engaged in the performance of the person's duties or because of the status as an operator of a motorbus or as the operator's supervisor or as an employee of a rail passenger service; or

(h) Any Department of Corrections employee, county correctional police officer, juvenile correctional police officer, State juvenile facility employee, juvenile detention staff member, juvenile detention officer, probation officer or any sheriff, undersheriff, or sheriff's officer acting in the performance of the person's duties while in uniform or exhibiting evidence of the person's authority or because of the status as a Department of Corrections employee, county correctional police officer, juvenile correctional police officer, State juvenile facility employee, juvenile detention staff member, juvenile detention officer, probation officer, sheriff, undersheriff, or sheriff's officer; or

(i) Any employee, including any person employed under contract, of a utility company as defined in section 2 of P.L.1971, c.224 (C.2A:42-86) or a cable television company subject to the provisions of the "Cable Television Act," P.L.1972, c.186 (C.48:5A-1 et seq.) while clearly identifiable as being engaged in the performance of the employee's duties in regard to connecting, disconnecting, or repairing or attempting to connect, disconnect, or repair any gas, electric, or water utility, or cable television or telecommunication service; or

(j) Any health care worker employed by a licensed health care facility to provide direct patient care, any health care professional licensed or otherwise authorized pursuant to Title 26 or Title 45 of the Revised Statutes to practice a health care profession, except a direct care worker at a State or county psychiatric hospital or State developmental center or veterans' memorial home, while clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession; or

(k) Any direct care worker at a State or county psychiatric hospital or State developmental center or veterans' memorial home, while clearly identifiable as being engaged in the duties of providing direct patient care or practicing the health care profession, provided that the actor is not a patient or resident at the facility who is classified by the facility as having a mental illness or developmental disability; or

(l) Any employee of a store or other retail mercantile establishment while clearly identifiable as being engaged in the performance of the person's duties. "Store or other retail mercantile establishment" means the same as such term is defined in N.J.S.2C:20-11. "Employee" means any person who provides customer assistance, store management, visual merchandising, loss prevention or security services, whether in uniform or in plain clothes, or who acts as a cashier, salesperson, or team associate or otherwise interacts with customers for or on behalf of the store or other retail mercantile establishment; or

(6) Causes bodily injury to another person while fleeing or attempting to elude a law enforcement officer in violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this paragraph upon proof of a violation of subsection b. of N.J.S.2C:29-2 or while operating a motor vehicle in violation of subsection c. of N.J.S.2C:20-10 which resulted in bodily injury to another person; or

(7) Attempts to cause significant bodily injury to another or causes significant bodily injury purposely or knowingly or, under circumstances manifesting extreme indifference to the value of human life recklessly causes such significant bodily injury; or

(8) Causes bodily injury by knowingly or purposely starting a fire or causing an explosion in violation of N.J.S.2C:17-1 which results in bodily injury to any emergency services personnel involved in fire suppression activities, rendering emergency medical services resulting from the fire or explosion or rescue operations, or rendering any necessary assistance at the scene of the fire or explosion, including any bodily injury sustained while responding to the scene of a reported fire or explosion. For purposes of this paragraph, "emergency services personnel" shall include, but not be limited to, any paid or volunteer firefighter, any person engaged in emergency first-aid or medical services and any law enforcement officer. Notwithstanding any other provision of law to the contrary, a person shall be strictly liable for a violation of this paragraph upon proof of a violation of N.J.S.2C:17-1 which resulted in bodily injury to any emergency services personnel; or

(9) Knowingly, under circumstances manifesting extreme indifference to the value of human life, points or displays a firearm, as defined in subsection f. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer; or

(10) Knowingly points, displays or uses an imitation firearm, as defined in subsection v. of N.J.S.2C:39-1, at or in the direction of a law enforcement officer with the purpose to intimidate, threaten, or attempt to put the officer in fear of bodily injury or for any unlawful purpose; or

(11) Uses or activates a laser sighting system or device, or a system or device which, in the manner used, would cause a reasonable person to believe that it is a laser sighting system or device, against a law enforcement officer acting in the performance of the officer's duties while in uniform or exhibiting evidence of the officer's authority. As used in this paragraph, "laser sighting system or device" means any system or device that is integrated with or affixed to a firearm and emits a laser light beam that is used to assist in the sight alignment or aiming of the firearm; or

(12) Attempts to cause significant bodily injury or causes significant bodily injury purposely or knowingly or, under circumstances manifesting extreme indifference to the value of human life, recklessly causes significant bodily injury to a person who, with respect to the

actor, meets the definition of a victim of domestic violence, as defined in subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-19); or

(13) Knowingly or, under circumstances manifesting extreme indifference to the value of human life, recklessly obstructs the breathing or blood circulation of a person who, with respect to the actor, meets the definition of a victim of domestic violence, as defined in subsection d. of section 3 of P.L.1991, c.261 (C.2C:25-19), by applying pressure on the throat or neck or blocking the nose or mouth of such person, thereby causing or attempting to cause bodily injury.

Aggravated assault under paragraphs (1) and (6) of subsection b. of this section is a crime of the second degree; under paragraphs (2), (7), (9), and (10) of subsection b. of this section is a crime of the third degree; under paragraphs (3) and (4) of subsection b. of this section is a crime of the fourth degree; and under paragraph (5) of subsection b. of this section is a crime of the third degree if the victim suffers bodily injury, otherwise it is a crime of the fourth degree, except:

any aggravated assault under subparagraph (g) of paragraph (5) of subsection b. of this section shall be a crime of the third degree; and

any aggravated assault of a law enforcement officer under subparagraph (a) of paragraph (5) of subsection b. of this section resulting in serious bodily injury shall be a crime of the second degree. Notwithstanding the provisions of N.J.S.2C:1-8 or any other law, a conviction for assaulting a law enforcement officer under subparagraph (a) of paragraph (5) of subsection b. of this section shall not merge with a conviction for any other criminal offense. A mandatory term of incarceration pursuant to section 2 of P.L.1997, c.117 (C.2C:43-7.2) shall not apply to a conviction for aggravated assault of a law enforcement officer under subparagraph (a) of paragraph (5) of subsection b. of this section unless the assault resulted in serious bodily injury to the officer. A person charged with aggravated assault of a law enforcement officer under subparagraph (a) of paragraph (5) of subsection b. of this section resulting in serious bodily injury shall be ineligible to apply for admission to a program of supervisory treatment pursuant to the provisions of N.J.S.2C:43-12 through 2C:43-22.

Aggravated assault under paragraph (8) of subsection b. of this section is a crime of the third degree if the victim suffers bodily injury; if the victim suffers significant bodily injury or serious bodily injury it is a crime of the second degree. Aggravated assault under paragraph (11) of subsection b. of this section is a crime of the third degree. Aggravated assault under paragraph (12) of subsection b. of this section is a crime of the third degree but the presumption of non-imprisonment set forth in subsection e. of N.J.S.2C:44-1 for a first offense of a crime of the third degree shall not apply. Aggravated assault under paragraph (13) of subsection b. of this section is a crime of the second degree.

c. (1) A person is guilty of assault by auto or vessel when the person drives a vehicle or vessel recklessly and causes either serious bodily injury or bodily injury to another. Assault by auto or vessel is a crime of the fourth degree if serious bodily injury results and is a disorderly persons offense if bodily injury results. Proof that the defendant was operating a hand-held wireless telephone while driving a motor vehicle in violation of section 1 of P.L.2003, c.310 (C.39:4-97.3) may give rise to an inference that the defendant was driving recklessly.

(2) Assault by auto or vessel is a crime of the third degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and serious bodily injury results and is a crime of the fourth degree if the person drives the vehicle while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) and bodily injury results.

(3) Assault by auto or vessel is a crime of the second degree if serious bodily injury results from the defendant operating the auto or vessel while in violation of R.S.39:4-50 or section 2 of P.L.1981, c.512 (C.39:4-50.4a) while:

(a) on any school property used for school purposes which is owned by or leased to any elementary or secondary school or school board, or within 1,000 feet of such school property;

(b) driving through a school crossing as defined in R.S.39:1-1 if the municipality, by ordinance or resolution, has designated the school crossing as such; or

(c) driving through a school crossing as defined in R.S.39:1-1 knowing that juveniles are present if the municipality has not designated the school crossing as such by ordinance or resolution.

Assault by auto or vessel is a crime of the third degree if bodily injury results from the defendant operating the auto or vessel in violation of this paragraph.

A map or true copy of a map depicting the location and boundaries of the area on or within 1,000 feet of any property used for school purposes which is owned by or leased to any elementary or secondary school or school board produced pursuant to section 1 of P.L.1987, c.101 (C.2C:35-7) may be used in a prosecution under subparagraph (a) of paragraph (3) of this subsection.

It shall be no defense to a prosecution for a violation of subparagraph (a) or (b) of paragraph (3) of this subsection that the defendant was unaware that the prohibited conduct took place while on or within 1,000 feet of any school property or while driving through a school crossing. Nor shall it be a defense to a prosecution under subparagraph (a) or (b) of paragraph (3) of this subsection that no juveniles were present on the school property or crossing zone at the time of the offense or that the school was not in session.

(4) Assault by auto or vessel is a crime of the third degree if the person purposely drives a vehicle in an aggressive manner directed at another vehicle and serious bodily injury results and is a crime of the fourth degree if the person purposely drives a vehicle in an aggressive manner directed at another vehicle and bodily injury results. For purposes of this paragraph, "driving a vehicle in an aggressive manner" shall include, but is not limited to, unexpectedly altering the speed of the vehicle, making improper or erratic traffic lane changes, disregarding traffic control devices, failing to yield the right of way, or following another vehicle too closely.

As used in this subsection, "vessel" means a means of conveyance for travel on water and propelled otherwise than by muscular power.

d. A person who is employed by a facility as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) who commits a simple assault as defined in paragraph (1) or (2) of subsection a. of this section upon an institutionalized elderly person as defined in section 2 of P.L.1977, c.239 (C.52:27G-2) is guilty of a crime of the fourth degree.

e. (Deleted by amendment, P.L.2001, c.443)

f. A person who commits a simple assault as defined in paragraph (1), (2), or (3) of subsection a. of this section in the presence of a child under 16 years of age at a school or community sponsored youth sports event is guilty of a crime of the fourth degree. The defendant shall be strictly liable upon proof that the offense occurred, in fact, in the presence of a child under 16 years of age. It shall not be a defense that the defendant did not know that the child was present or reasonably believed that the child was 16 years of age or older. The provisions of this subsection shall not be construed to create any liability on the part of a participant in a youth sports event or to abrogate any immunity or defense available to a participant in a youth sports event. As used in this act, "school or community sponsored youth sports event" means a competition, practice, or instructional event involving one or more interscholastic sports teams or youth sports teams organized pursuant to a nonprofit or similar

charter or which are member teams in a youth league organized by or affiliated with a county or municipal recreation department and shall not include collegiate, semi-professional or professional sporting events.

4. N.J.S.2C:20-11 is amended to read as follows:

Shoplifting.

a. Definitions. The following definitions apply to this section:

(1) "Shopping cart" means those push carts of the type or types which are commonly provided by grocery stores, drug stores or other retail mercantile establishments for the use of the public in transporting commodities in stores and markets and, incidentally, from the stores to a place outside the store;

(2) "Store or other retail mercantile establishment" means a place where merchandise is displayed, held, stored or sold or offered to the public for sale;

(3) "Merchandise" means any goods, chattels, foodstuffs or wares of any type and description, regardless of the value thereof;

(4) "Merchant" means any owner or operator of any store or other retail mercantile establishment, or any agent, servant, employee, lessee, consignee, officer, director, franchisee or independent contractor of such owner or proprietor;

(5) "Person" means any individual or individuals, including an agent, servant or employee of a merchant where the facts of the situation so require;

(6) "Conceal" means to conceal merchandise so that, although there may be some notice of its presence, it is not visible through ordinary observation;

(7) "Full retail value" means the merchant's stated or advertised price of the merchandise;

(8) "Premises of a store or retail mercantile establishment" means and includes but is not limited to, the retail mercantile establishment; any common use areas in shopping centers and all parking areas set aside by a merchant or on behalf of a merchant for the parking of vehicles for the convenience of the patrons of such retail mercantile establishment;

(9) "Under-ring" means to cause the cash register or other sale recording device to reflect less than the full retail value of the merchandise;

(10) "Antishoplifting or inventory control device countermeasure" means any item or device which is designed, manufactured, modified, or altered to defeat any antishoplifting or inventory control device;

(11) "Organized retail theft enterprise" means any association of two or more persons who engage in the conduct of or are associated for the purpose of effectuating the transfer or sale of shoplifted merchandise.

b. Shoplifting. Shoplifting shall consist of any one or more of the following acts:

(1) For any person purposely to take possession of, carry away, transfer or cause to be carried away or transferred, any merchandise displayed, held, stored or offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the possession, use or benefit of such merchandise or converting the same to the use of such person without paying to the merchant the full retail value thereof.

(2) For any person purposely to conceal upon his person or otherwise any merchandise offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the processes, use or benefit of such merchandise or converting the same to the use of such person without paying to the merchant the value thereof.

(3) For any person purposely to alter, transfer or remove any label, price tag or marking indicia of value or any other markings which aid in determining value affixed to any

merchandise displayed, held, stored or offered for sale by any store or other retail mercantile establishment and to attempt to purchase such merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of all or some part of the value thereof.

(4) For any person purposely to transfer any merchandise displayed, held, stored or offered for sale by any store or other retail mercantile establishment from the container in or on which the same shall be displayed to any other container with intent to deprive the merchant of all or some part of the retail value thereof.

(5) For any person purposely to under-ring with the intention of depriving the merchant of the full retail value thereof.

(6) For any person purposely to remove a shopping cart from the premises of a store or other retail mercantile establishment without the consent of the merchant given at the time of such removal with the intention of permanently depriving the merchant of the possession, use or benefit of such cart.

c. Gradation. (1) Shoplifting constitutes a crime of the second degree under subsection b. of this section if the full retail value of the merchandise is \$75,000 or more, or the offense is committed in furtherance of or in conjunction with an organized retail theft enterprise and the full retail value of the merchandise is \$1,000 or more.

(2) Shoplifting constitutes a crime of the third degree under subsection b. of this section if the full retail value of the merchandise exceeds \$500 but is less than \$75,000, or the offense is committed in furtherance of or in conjunction with an organized retail theft enterprise and the full retail value of the merchandise is less than \$1,000.

(3) Shoplifting constitutes a crime of the fourth degree under subsection b. of this section if the full retail value of the merchandise is at least \$200 but does not exceed \$500.

(4) Shoplifting is a disorderly persons offense under subsection b. of this section if the full retail value of the merchandise is less than \$200.

The value of the merchandise involved in a violation or in multiple violations of this section may be aggregated in determining the grade of the offense where the acts or conduct constituting a violation were committed pursuant to one scheme or course of conduct, whether from the same person or several persons and regardless of the time period over which the scheme or course of conduct took place, or were committed in furtherance of or in conjunction with an organized retail theft enterprise.

Additionally, notwithstanding the term of imprisonment provided in N.J.S.2C:43-6 or 2C:43-8, any person convicted of a shoplifting offense shall be sentenced to perform community service as follows: for a first offense, at least ten days of community service; for a second offense, at least 15 days of community service; and for a third or subsequent offense, a maximum of 25 days of community service and any person convicted of a third or subsequent shoplifting offense shall serve a minimum term of imprisonment of not less than 90 days.

d. Presumptions. Any person purposely concealing unpurchased merchandise of any store or other retail mercantile establishment, either on the premises or outside the premises of such store or other retail mercantile establishment, shall be prima facie presumed to have so concealed such merchandise with the intention of depriving the merchant of the possession, use or benefit of such merchandise without paying the full retail value thereof, and the finding of such merchandise concealed upon the person or among the belongings of such person shall be prima facie evidence of purposeful concealment; and if such person conceals, or causes to be concealed, such merchandise upon the person or among the belongings of another, the finding of the same shall also be prima facie evidence of willful concealment on the part of the person so concealing such merchandise.

e. A law enforcement officer, or a special officer, or a merchant, who has probable cause for believing that a person has willfully concealed unpurchased merchandise and that he can recover the merchandise by taking the person into custody, may, for the purpose of attempting to effect recovery thereof, take the person into custody and detain him in a reasonable manner for not more than a reasonable time, and the taking into custody by a law enforcement officer or special officer or merchant shall not render such person criminally or civilly liable in any manner or to any extent whatsoever.

Any law enforcement officer may arrest without warrant any person he has probable cause for believing has committed the offense of shoplifting as defined in this section.

A merchant who causes the arrest of a person for shoplifting, as provided for in this section, shall not be criminally or civilly liable in any manner or to any extent whatsoever where the merchant has probable cause for believing that the person arrested committed the offense of shoplifting.

f. Any person who possesses or uses any antishoplifting or inventory control device countermeasure within any store or other retail mercantile establishment is guilty of a disorderly persons offense.

C.2C:20-11.3 Extended imprisonment if previously convicted on two or more separate offenses, retail theft.

5. a. Upon request of the prosecutor, a person who has been convicted of shoplifting pursuant to N.J.S.2C:20-11, receiving stolen property pursuant to N.J.S.2C:20-7, leader of organized retail theft enterprise pursuant to section 2 of P.L.2006, c.56 (C.2C:20-11.2), or theft as defined in chapter 20 of Title 2C of the New Jersey Statutes that involves the stealing of merchandise from a retail mercantile establishment shall be sentenced to an extended term of imprisonment pursuant to N.J.S.2C:43-7 if the person has previously been convicted on two or more prior and separate occasions, regardless of the dates of the convictions, in accordance with the provisions of subsection b. of this section, for a violation of paragraphs (1) or (2) of subsection c. of N.J.S.2C:20-11, N.J.S.2C:20-7, section 2 of P.L.2006, c.56 (C.2C:20-11.2), or theft as defined in chapter 20 of Title 2C of the New Jersey Statutes involving the stealing of merchandise, or a crime under any statute of the United States, this State, or any other state for a crime that is substantially equivalent to a violation of shoplifting, leader of organized retail theft enterprise, or theft involving merchandise.

b. The provisions of this section shall not apply unless the prior convictions are for crimes committed on separate occasions and the crime for which the defendant is being sentenced was committed either:

(1) within 10 years of the date of the defendant's last release from confinement for the commission of any crime; or

(2) within 10 years of the date of the commission of the most recent of the crimes enumerated in subsection a. of this section for which the defendant has a prior conviction.

c. Prior convictions shall be defined and proven in accordance with N.J.S.2C:44-4.

d. The court shall not impose a sentence of imprisonment pursuant to this section unless the ground therefor has been established at a hearing after the conviction of the defendant and on written notice to the defendant of the ground proposed. The defendant shall have the right to hear and controvert the evidence against him and to offer evidence upon the issue.

C.52:17B-4.13 Attorney General, steps to combat organized retail theft.

6. a. The Attorney General shall undertake such steps as the Attorney General deems appropriate to promote the effective investigation, prosecution, and deterrence of organized

retail theft in this State, which may include establishing a retail theft unit, task force, or other appropriate office or initiative in the Department of Law and Public Safety to combat organized retail theft or the implementation of a Statewide policy to direct and coordinate State and local law enforcement efforts to investigate and prosecute organized retail theft.

b. (1) In a manner prescribed by the Attorney General, a county prosecutor, law enforcement officer, special officer, or retail merchant may notify the Division of Criminal Justice, or other entity within the Department of Law and Public Safety designated by the Attorney General to receive notice, of allegations that a crime of retail theft was committed.

(2) In a manner prescribed by the Attorney General, a county prosecutor shall notify the Division of Criminal Justice, or other entity within the Department of Law and Public Safety designated by the Attorney General to receive notice, that a crime of retail theft was allegedly committed by a defendant if:

(a) there is probable cause that the defendant has committed two or more acts of retail theft in the State;

(b) there is probable cause that the defendant has committed one or more acts of retail theft in this State and one or more acts of retail theft in another state; or

(c) the defendant has previously been convicted of retail theft in this State or another state.

c. In addition to any other authority provided under the law, the Division of Criminal Justice shall have the authority to:

(1) investigate and, if warranted, prosecute cases concerning acts of retail theft; and

(2) assist county prosecutors in the investigation and prosecution of acts of retail theft.

d. As used in this section, “retail theft” shall include the crimes of shoplifting pursuant to N.J.S.2C:20-11; leader of organized retail theft enterprise pursuant to section 2 of P.L.2006, c.56 (C.2C:20-11.2); or theft as defined in chapter 20 of Title 2C of the New Jersey Statutes that involves the stealing of merchandise.

7. Section 19 of P.L.1987, c.76 (C.54:52-9) is amended to read as follows:

C.54:52-9 Failure to pay.

19. a. A person is guilty of a crime if he fails to pay or turn over when due any tax, fee, penalty, or interest or any part thereof required to be paid pursuant to the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1 et seq., as amended and supplemented, or any State tax law, with the intent to evade, avoid, or otherwise not make timely payment or deposit of any tax, fee, penalty, or interest or any part thereof. The crime shall be of the second degree if any portion of the tax, fee, penalty, or interest or any part thereof required to be paid or turned over was accrued through conduct committed in violation of section 2 of P.L.2006, c.56 (C.2C:20-11.2), otherwise it shall be a crime of the third degree.

b. The fact that any payment was made with a subsequently dishonored negotiable instrument shall constitute prima facie evidence that the actor failed to pay within the meaning of subsection a. of this section, and the trier of fact may draw a permissive inference therefrom that the actor did not intend to make the payment.

8. Section 25 of P.L.1987, c.76 (C.54:52-15) is amended to read as follows:

C.54:52-15 Failure to turn over collected, withheld tax.

25. A person is guilty of a crime of the third degree if, after having collected or withheld taxes as required by any State tax law, whether or not the person is authorized, licensed, or registered to collect or withhold taxes, the person purposely fails to turn over the taxes to the

Director of the Division of Taxation in the manner and at the time prescribed by law. The crime shall be of the second degree if the amount of the tax collected or withheld is \$75,000.00 or more, or if the taxes the person failed to turn over to the Director of the Division of Taxation were collected or withheld as part of an organized retail theft enterprise in violation of section 2 of P.L.2006, c.56 (C.2C:20-11.2).

9. Section 1 of P.L.2021, c.431 (C.56:8-110.1) is amended to read as follows:

C.56:8-110.1 Gift card fraud; detection, prevention; employee training; definitions.

1. a. Every retail mercantile establishment in this State that displays gift cards for sale shall train employees on how to identify and respond to gift card fraud. A retail mercantile establishment shall conduct the training in accordance with guidelines issued pursuant to section 2 of P.L.2021, c.431 (C.56:8-110.2).

b. A retail mercantile establishment that violates the provisions of this section or section 10 of P.L.2025, c.39 (C.56:8-110.3) shall be subject to a civil penalty of \$1,000, which may be collected and enforced by the Director of the Division of Consumer Affairs in the Department of Law and Public Safety in a summary proceeding pursuant to the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.). The Superior Court shall have jurisdiction of proceedings for the enforcement of the penalty provided by this section.

A violation of this section shall not be considered an unlawful practice in violation of P.L.1960, c.39 (C.56:8-1 et seq.).

c. As used in P.L.2021, c.431 (C.56:8-110.1 et seq.), and section 10 of P.L.2025, c.39 (C.56:8-110.3):

“Gift card” means a tangible device, whereon is embedded or encoded in an electronic or other format a value issued in exchange for payment, which promises to provide to the bearer merchandise of equal value to the remaining balance of the device. A “gift card” shall not include a stored value reloadable card as defined in subsection k. of section 5 of P.L.2010, c.25 (C.46:30B-42.1).

“Merchandise” means any objects, wares, goods, commodities, services, or anything offered, directly or indirectly, to the public for sale.

“Retail mercantile establishment” means any place of business where merchandise is exposed or offered for sale at retail to members of the consuming public.

“Third-Party Gift Card Reseller” means a merchant who, without authorization from or affiliation with the business entity issuing a gift card, is engaged in the business of:

- (1) buying gift cards on behalf of consumers; or
- (2) reselling gift cards to consumers.

C.56:8-110.3 Division of Consumer Affairs, Internet notice, gift card scam information.

10. a. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall create and make available on its Internet website a notice to customers of retail mercantile establishments which shall include, but not be limited to:

- (1) the risk of gift card scams; and
- (2) available assistance, including from the Division of Consumer Affairs, a consumer may seek if the consumer suspects they may be a victim of a gift card scam.

b. (1) A retail mercantile establishment may not knowingly sell a gift card to a consumer unless the retail mercantile establishment conspicuously displays a notice in a form as prescribed by the Director of the Division of Consumer Affairs in accordance with subsection a. of this section.

(2) For in-person sales, the notice shall be placed at or near the physical location where the gift card is displayed for sale or where the gift card sales transaction takes place.

(3) For online sales of gift cards, the notice shall be displayed on the webpage where the gift card is offered for sale or before the sale is finalized.

c. Except as otherwise provided in subsection d. of this section, a retail mercantile establishment may not display or sell a gift card unless:

(1) the gift card or its packaging includes in a manner visible to potential purchasers when on display a warning that states “Do not sell or purchase if the gift card or its packaging has been broken or indicates tampering” or that uses substantially similar language;

(2) the gift card, if enclosed in packaging, is sealed in a manner that is not easily opened, removed, or replaced without signs of tampering; and

(3) regardless of whether the gift card is or is not enclosed in packaging, all visible numbers such as a card number, CVV number, or a PIN number that can be used for balance inquiries or manual entry redemption are either fully concealed or covered, or otherwise made unavailable prior to sale or, only if the gift card is enclosed in packaging that is designed to make the gift card more secure than full concealment or covering otherwise would, are partially concealed or covered.

d. A retail mercantile establishment may display or sell a gift card that does not conform to the requirements of paragraphs (2) and (3) of subsection c. of this section if:

(1) the gift card is a chip-enabled, numberless card that is activated by a consumer after registering the card on the card issuer’s website;

(2) the gift card is:

(a) sold exclusively by a retail mercantile establishment for use only at the retail mercantile establishment or a group of affiliated retail mercantile establishments for use at the retail mercantile establishments of the affiliated establishments; and

(b) is secured in a physical location within the retail mercantile establishment that is accessible only by an employee, or

(3) the gift card or its packaging:

(a) incorporates technology that is designed to prevent activation if the gift card or its packaging has been subjected to tampering; or

(b) incorporates technology that is designed to detect and prevent unauthorized redemption.

e. (1) When a third-party gift card reseller buys or sells a gift card as part of a transaction occurring in this State, the reseller shall record and, for at least three years, maintain a copy of the following information as applicable:

(a) the date of the transaction;

(b) the name of the person who conducted the transaction;

(c) the name, age, and address of the seller of the gift card;

(d) the seller’s and consumer’s driver’s license number or identification card number;

(e) a description of the purchased gift card, including, but not limited to, the retailer for which the gift card is intended for use and the gift card number;

(f) the specific amount issued on the gift card;

(g) the transaction price;

(h) the signature of the consumer.

(2) The information recorded and maintained pursuant to this section shall be chronologically written in ink or logged into a secure database, software system, or other similar technology platform.

(3) Except as provided in paragraph (4) of this subsection, recorded information may not be destroyed, altered, or erased.

(4) A handwritten correction may be made to an entry of information by drawing a line of ink through the entry in a manner that retains legibility.

(5) Information recorded pursuant to this subsection shall be open to inspection by any duly authorized law enforcement officer in this State during the ordinary business hours of the third-party gift card reseller or at other reasonable time.

f. A third-party gift card reseller, including an agent or employee of the third-party gift card reseller may not:

(1) fail to make an entry of or falsify, destroy, or remove any information required to be recorded and maintained pursuant to this section;

(2) refuse to allow any duly authorized law enforcement officer in this State to inspect a record of information or the gift cards in the reseller's possession; or

(3) fail to maintain a record in pursuant to this section.

g. Upon request of a law enforcement agency conducting an investigation into allegations of theft of one or more gift cards, the issuer of the gift cards or the issuer's agents shall preserve and provide law enforcement with all relevant evidence so requested.

11. This act shall take effect immediately, except that sections 9 and 10 shall remain inoperative until October 1, 2025, but the Director of the Division of Consumer Affairs may take such anticipatory action as may be necessary to effectuate the provisions of those sections, and section 6 shall take effect on the 180 day after the date of enactment.

Approved April 1, 2025.