

MARYLAND RETAILERS ALLIANCE

The Voice of Retailing in Maryland



SB11/HB179 Organized Retail Theft Act of 2025 **Senate Judicial Proceedings Committee / House Judiciary Committee** **January 21, 2025**

Position: Favorable

Comments: The Maryland Retailers Alliance (MRA) strongly supports SB11/HB179, which will do three things: define and create the crime of organized retail theft; allow instances of organized retail theft to be aggregated across jurisdictions; and provide for data collection.

Maryland currently has a theft scheme statute that applies when a person repeatedly steals from the same person or group over a period of time. The loophole that exists in this law is that it does not explicitly allow theft charges to be aggregated across jurisdictions. To be clear, the law proposed in SB11/HB179 creates is not technically new, as multiple thefts committed in one jurisdiction may already be joined together and pursued for higher charges. Professional thieves and organized groups understand this nuance and the \$1500 felony theft threshold limit and strategically travel from jurisdiction to jurisdiction to avoid felony theft charges.

History and Landscape: Organized retail crime has ballooned to an over \$100 billion problem in the United States alone which has resulted in action at both the Federal and State levels. The impacts are felt in communities in many ways: higher prices, store closures, reduced public services due to less sales tax and revenue for the state and localities, and the fact that the revenue from these thefts funds other illicit crimes.

Congress passed the Integrity, Notification, and Fairness in Online Retail Marketplaces for Consumers Act (INFORM Consumers Act) in 2022 which creates transparency with 3rd party online sellers. Organized rings and professional thieves often use these marketplaces to sell stolen goods. The law requires online marketplaces to collect and verify certain information from high-volume third-party sellers to ensure transparency and establish record keeping to help stop the sale of counterfeit and stolen merchandise.

In October of 2022, the federal government announced through Homeland Security Investigations (HIS) the launch of [Operation Boiling Point](#), which focused on combating organized theft groups (OTG) through the targeting of domestic and transnational criminal organizations (TCO) profiting from organized retail crime (ORC). Partnering with federal, state, local law enforcement and prosecutors, as well as financial, retail, freight transportation, and other industries, Operation Boiling Point provides a multi-faceted approach to disrupt and dismantle OTGs through partnerships, investigations, and consumer awareness. Unfortunately, the threshold for their involvement remains high and is constantly evaded by professional groups.

Additionally, 37 states, both blue and red, have now also passed laws addressing the issue of retail crime, with new legislation being introduced and adopted every year and many states having multiple statutes on the books. Laws range from better coordination to easier prosecution, task forces, funding and the creation of new crimes to separate out petty and professional theft.

Prior Issues Raised: Concerns were previously expressed around the issue of “joinder” and we would refer the Committee to the letter of advice issued by the Office of the Attorney General in 2024 which clearly states the provision found in SB11/HB179 is “discretionary and does not change existing common law or Maryland Rule”. The purpose of joining offenses and policies favoring judicial economy are to “save time and expense of separate trials under the circumstances named in the Rule...”. As we have pointed out to the Committee, nothing in the bill prohibits a defendant from seeking separate trials of their charges through a motion to sever if they believe the joinder of said charges would prejudice their rights. The court will then consider factors such as the complexity of the case, potential prejudice to the defendant, and the interests of judicial economy in deciding whether to grant the motion.

We would also direct the Committee to Maryland Code Criminal Law Title 9-804 which prohibits participation in criminal gangs and allows for joinder: “(3) Notwithstanding any other provision of law, in circumstances in which violations of this section are alleged to have been committed in more than one county, the respective State's Attorney of each county, or the Attorney General, may join the causes of action in a single complaint with the consent of each State's Attorney having jurisdiction over an offense sought to be joined”. As the Attorney General’s letter points out, “As long as the State can establish the mutual admissibility of the evidence of the multiple thefts under a single scheme or continuing course of conduct, a court may join charges or offenses in a single trial under Rule 4-253” and this proposed law is consistent with that authority and other laws in current statute.

Additional concerns have been raised regarding loss prevention or asset protection representatives missing court dates. Our organization has made a commitment to prosecutors’ offices around the state to help them connect with the proper individuals in large companies, and have issued guidance to our members regarding how to effectively collaborate with prosecutors throughout a case. In discussing this issue with several States Attorney’s offices, it has also been pointed out to us that jurisdictions would be better served by allowing witnesses to testify via Zoom, as they did during the COVID-19 pandemic. Although we contend that in most cases companies do everything in their power to be present, this would help address this problem as theft cases and daily events can impact their ability to be physically present.

In 2024, this proposal unanimously passed both Chambers in the exact format that is before you today, though there was not time for the bills to move through the entire legislative process to passage. We strongly and respectfully urge the Committees to pass SB11/HB179 with expediency.