

# HOUSE BILL 948

E1  
HB 446/21 – JUD

4lr2801

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By: ~~Delegate Toles~~ Delegates Toles, Pasteur, Schmidt, Phillips, Tomlinson,  
Arikan, Taylor, Valentine, Kaufman, and Cardin

Introduced and read first time: February 2, 2024

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 25, 2024

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Organized Retail Theft – Venue for Prosecution, Warrantless Arrest Authority,~~  
3 ~~and Court Finding~~  
4 Criminal Law – Organized Retail Theft

5 FOR the purpose of providing that multiple thefts committed by the same person in  
6 multiple counties under one scheme or continuing course of conduct may be  
7 ~~aggregated~~ joined and prosecuted in a certain county; ~~altering a certain reference to~~  
8 ~~the maximum value of certain property or services applicable to misdemeanor theft;~~  
9 ~~clarifying the applicability of a certain warrantless arrest authority~~ prohibiting one  
10 or more persons from committing a series of thefts from retail merchants over a  
11 certain period with an aggregate value exceeding a certain amount; providing that a  
12 conviction under this Act merges with a certain other conviction for sentencing  
13 purposes; requiring a court to make a finding as to whether a certain crime is  
14 organized retail theft under certain circumstances for a certain purpose; and  
15 generally relating to organized retail theft.

16 BY repealing and reenacting, without amendments,

17 Article – Criminal Law

18 Section 7–103(a)

19 Annotated Code of Maryland

20 (2021 Replacement Volume and 2023 Supplement)

21 BY repealing and reenacting, with amendments,

22 Article – Criminal Law

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section ~~7-103(f)~~ 7-103(b) and (f)  
 2 Annotated Code of Maryland  
 3 (2021 Replacement Volume and 2023 Supplement)

4 ~~BY repealing and reenacting, with amendments,~~  
 5 ~~Article – Criminal Procedure~~  
 6 ~~Section 2-203~~  
 7 ~~Annotated Code of Maryland~~  
 8 ~~(2018 Replacement Volume and 2023 Supplement)~~

9 BY adding to  
 10 Article – Criminal ~~Procedure~~ Law  
 11 Section ~~6-237~~ 7-104.1  
 12 Annotated Code of Maryland  
 13 ~~(2018 Replacement Volume and 2023 Supplement)~~  
 14 (2021 Replacement Volume and 2023 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 16 That the Laws of Maryland read as follows:

17 **Article – Criminal Law**

18 7-103.

19 (a) In this section, “value” means:

20 (1) the market value of the property or service at the time and place of the  
 21 crime; or

22 (2) if the market value cannot satisfactorily be ascertained, the cost of the  
 23 replacement of the property or service within a reasonable time after the crime.

24 (b) [The] EXCEPT AS PROVIDED IN § 7-104.1 OF THIS SUBTITLE, THE value  
 25 of property or service under this part shall be determined in accordance with this section.

26 (f) (1) When theft is committed in violation of this part under one scheme or  
 27 continuing course of conduct, whether from the same or several sources:

28 [(1)] (I) the conduct may be considered as one crime; and

29 [(2)] (II) the value of the property or services may be aggregated in  
 30 determining whether the theft is a felony or a misdemeanor.

31 (2) **MULTIPLE THEFTS COMMITTED BY THE SAME PERSON IN**  
 32 **MULTIPLE COUNTIES UNDER ONE SCHEME OR CONTINUING COURSE OF CONDUCT**

1 ~~MAY BE AGGREGATED~~ JOINED AND PROSECUTED IN ANY COUNTY IN WHICH ANY ONE  
2 OF THE THEFTS OCCURRED.

3 7-104.1.

4 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
5 INDICATED.

6 (2) “ORGANIZED RETAIL THEFT” MEANS THE COMMISSION, EITHER  
7 ALONE OR IN CONCERT WITH ONE OR MORE OTHER PERSONS, OF A SERIES OF  
8 THEFTS OF RETAIL MERCHANDISE FROM ONE OR MORE RETAIL MERCHANTS OVER  
9 A 90-DAY PERIOD WITH THE INTENT TO:

10 (I) PERMANENTLY DEPRIVE THE MERCHANT OF THE  
11 MERCHANDISE;

12 (II) RETURN THE MERCHANDISE TO THE MERCHANT FOR  
13 MONETARY OR OTHER GAIN; OR

14 (III) RESELL, TRADE, OR BARTER THE MERCHANDISE FOR  
15 MONETARY OR OTHER GAIN.

16 (3) (I) “VALUE” HAS THE MEANING STATED IN § 7-103 OF THIS  
17 SUBTITLE.

18 (II) “VALUE” INCLUDES THE MARKET VALUE OF ANY PROPERTY  
19 DAMAGED IN FURTHERANCE OF THE CRIME AND ANY COSTS TO REPAIR, REPLACE,  
20 OR RESTOCK ANY DAMAGED OR STOLEN PROPERTY.

21 (B) A PERSON MAY NOT COMMIT ORGANIZED RETAIL THEFT OF PROPERTY  
22 WITH AN AGGREGATE VALUE EXCEEDING \$1,500.

23 (C) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION WITH A  
24 VALUE OF:

25 (1) AT LEAST \$1,500 BUT LESS THAN \$25,000 IS GUILTY OF A FELONY  
26 AND:

27 (I) IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR  
28 A FINE NOT EXCEEDING \$10,000 OR BOTH; AND

29 (II) SHALL RESTORE THE PROPERTY TAKEN TO THE OWNER OR  
30 PAY THE OWNER THE VALUE OF THE PROPERTY OR SERVICES;

1           **(2) AT LEAST \$25,000 BUT LESS THAN \$100,000 IS GUILTY OF A**  
 2 **FELONY AND:**

3                   **(I) IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS**  
 4 **OR A FINE NOT EXCEEDING \$15,000 OR BOTH; AND**

5                   **(II) SHALL RESTORE THE PROPERTY TAKEN TO THE OWNER OR**  
 6 **PAY THE OWNER THE VALUE OF THE PROPERTY OR SERVICES; OR**

7           **(3) \$100,000 OR MORE IS GUILTY OF A FELONY AND:**

8                   **(I) IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20 YEARS**  
 9 **OR A FINE NOT EXCEEDING \$25,000 OR BOTH; AND**

10                   **(II) SHALL RESTORE THE PROPERTY TAKEN TO THE OWNER OR**  
 11 **PAY THE OWNER THE VALUE OF THE PROPERTY OR SERVICES.**

12           **(D) (1) THIS SECTION DOES NOT PRECLUDE PROSECUTION FOR THEFT**  
 13 **UNDER § 7-104 OF THIS SUBTITLE.**

14           **(2) IF A PERSON IS CONVICTED UNDER § 7-104 OF THIS SUBTITLE**  
 15 **AND THIS SECTION FOR THE SAME ACTS OR TRANSACTIONS, THE CONVICTION**  
 16 **UNDER THIS SECTION SHALL MERGE FOR SENTENCING PURPOSES INTO THE**  
 17 **CONVICTION UNDER § 7-104 OF THIS SUBTITLE.**

18                                   ~~**Article Criminal Procedure**~~

19 ~~2-203.~~

20           ~~(a) A police officer without a warrant may arrest a person if the police officer has~~  
 21 ~~probable cause to believe:~~

22                   ~~(1) that the person has committed a crime listed in subsection (b) of this~~  
 23 ~~section; and~~

24                   ~~(2) that unless the person is arrested immediately, the person:~~

25                           ~~(i) may not be apprehended;~~

26                           ~~(ii) may cause physical injury or property damage to another; or~~

27                           ~~(iii) may tamper with, dispose of, or destroy evidence.~~

28           ~~(b) The crimes referred to in subsection (a)(1) of this section are:~~

1           ~~(1) manslaughter by vehicle or vessel under § 2-209 of the Criminal Law~~  
2 ~~Article;~~

3           ~~(2) malicious burning under § 6-104 or § 6-105 of the Criminal Law Article~~  
4 ~~or an attempt to commit the crime;~~

5           ~~(3) malicious mischief under § 6-301 of the Criminal Law Article or an~~  
6 ~~attempt to commit the crime;~~

7           ~~(4) a theft crime where the value of the property or services stolen is less~~  
8 ~~than [\$1,000] \$1,500 under § 7-104 [or § 7-105] of the Criminal Law Article, INCLUDING~~  
9 ~~§ 7-104(G)(4) OF THE CRIMINAL LAW ARTICLE, or an attempt to commit the crime;~~

10           ~~(5) the crime of giving or causing to be given a false alarm of fire under §~~  
11 ~~9-604 of the Criminal Law Article;~~

12           ~~(6) indecent exposure under § 11-107 of the Criminal Law Article;~~

13           ~~(7) a crime that relates to controlled dangerous substances under Title 5 of~~  
14 ~~the Criminal Law Article or an attempt to commit the crime;~~

15           ~~(8) the wearing, carrying, or transporting of a handgun under § 4-203 or §~~  
16 ~~4-204 of the Criminal Law Article;~~

17           ~~(9) carrying or wearing a concealed weapon under § 4-101 of the Criminal~~  
18 ~~Law Article;~~

19           ~~(10) prostitution and related crimes under Title 11, Subtitle 3 of the~~  
20 ~~Criminal Law Article; and~~

21           ~~(11) violation of a condition of pretrial or posttrial release under § 5-213.1~~  
22 ~~of this article.~~

23 ~~6-237.~~

24           ~~(A) IN THIS SECTION, "ORGANIZED RETAIL THEFT" MEANS THE~~  
25 ~~COMMISSION, EITHER ALONE OR WITH ONE OR MORE OTHER PERSONS, OF A SERIES~~  
26 ~~OF THEFTS OF RETAIL MERCHANDISE FROM ONE OR MORE RETAIL MERCHANTS~~  
27 ~~WITH THE INTENT TO:~~

28           ~~(1) RETURN THE MERCHANDISE TO THE MERCHANT FOR VALUE; OR~~

29           ~~(2) RESELL, TRADE, OR BARTER THE MERCHANDISE FOR VALUE.~~

30           ~~(B) (E) (1) (I) IF A DEFENDANT IS CONVICTED OF OR RECEIVES A~~  
31 ~~PROBATION BEFORE JUDGMENT DISPOSITION FOR THEFT UNDER § 7-104 OF THE~~

1 ~~CRIMINAL LAW ARTICLE~~ THIS SUBTITLE, BURGLARY UNDER § 6-203 OR § 6-205 OF  
 2 ~~THE CRIMINAL LAW ARTICLE~~ THIS ARTICLE, ROBBERY UNDER § 3-402 OR § 3-403  
 3 OF ~~THE CRIMINAL LAW ARTICLE~~ THIS ARTICLE, OR USE OF A FIREARM IN THE  
 4 COMMISSION OF A CRIME OF VIOLENCE OR A FELONY UNDER § 4-204 OF ~~THE~~  
 5 ~~CRIMINAL LAW ARTICLE~~ THIS ARTICLE, ON REQUEST OF THE STATE’S ATTORNEY  
 6 THE COURT SHALL MAKE A FINDING OF FACT BASED ON EVIDENCE PRODUCED AT  
 7 TRIAL AS TO WHETHER THE CRIME IS ORGANIZED RETAIL THEFT.

8           ~~(2)~~ (II) THE STATE HAS THE BURDEN OF PROVING BY A  
 9 PREPONDERANCE OF THE EVIDENCE THAT THE CRIME IS ORGANIZED RETAIL  
 10 THEFT.

11           ~~(c)~~ (2) IF THE COURT FINDS THAT THE CRIME IS ORGANIZED RETAIL  
 12 THEFT UNDER ~~SUBSECTION (B) OF THIS SECTION~~ PARAGRAPH (1) OF THIS  
 13 SUBSECTION, THAT FINDING SHALL BECOME PART OF THE COURT RECORD FOR  
 14 PURPOSES OF REPORTING TO THE CRIMINAL JUSTICE INFORMATION SYSTEM  
 15 CENTRAL REPOSITORY UNDER § 10-215 OF ~~THIS ARTICLE~~ THE CRIMINAL  
 16 PROCEDURE ARTICLE.

17           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 18 October 1, 2024.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.