
HB 97: ORGANIZED RETAIL THEFT

BY REP. ZACK FIELDS

House Judiciary Committee
February 26, 2025

ORGANIZED RETAIL CRIME

- Homeland Security Investigations (HSI) defines ORC as *“the association of two or more persons engaged in illegally obtaining items of value from retail establishments, through theft and/or fraud, as part of a criminal enterprise.”*¹
- According to the 2021 joint report released by the Retail Industry Leaders Association (RILA) and the Buy Safe America Coalition, in 2019, nearly *\$70 billion* in goods were stolen from retailers.²
- ORC is not simply shoplifting, and these crimes are not victimless. A growing number of thefts turn violent, and consumers, local communities and businesses bear the costs of rising prices. These thefts are detrimental to both businesses, small and large alike, and the overall economy as they pose both societal and health risks to the community.

1: "DETECTING & REPORTING THE ILLICIT FINANCIAL FLOWS TIED TO ORGANIZED THEFT GROUPS (OTG) AND ORGANIZED RETAIL CRIME (ORC): A COMPREHENSIVE GUIDE FOR LAW ENFORCEMENT & FINANCIAL CRIME INVESTIGATORS" PRODUCED BY ACAMS & HOMELAND SECURITY INVESTIGATIONS. [HTTPS://WWW.ACAMS.ORG/EN/MEDIA/DOCUMENT/29436](https://www.acams.org/en/media/document/29436)

2: "THE IMPACT OF ORGANIZED RETAIL CRIME & PRODUCT THEFT IN THE UNITED STATES" [HTTPS://WWW.BUYSAFEAMERICA.ORG/IMPACT-OF-ORGANIZED-RETAIL-CRIME-AND-PRODUCT-THEFT](https://www.buysafeamerica.org/impact-of-organized-retail-crime-and-product-theft)

Types of Retailer Targeted for ORC, by Ranking



“ORGANIZED RETAIL CRIME IS LEADING TO MORE BRAZEN AND MORE VIOLENT ATTACKS IN RETAIL STORES THROUGHOUT THE COUNTRY AND MANY OF THE CRIMINAL RINGS ORCHESTRATING THESE THEFTS ARE ALSO INVOLVED IN OTHER SERIOUS CRIMINAL ACTIVITY. TACKLING THIS GROWING THREAT IS IMPORTANT TO THE SAFETY OF STORE EMPLOYEES, CUSTOMERS, AND COMMUNITIES ACROSS THE COUNTRY.”

- ACTING EXECUTIVE ASSOCIATE
DIRECTOR STEVE FRANCIS,
HOMELAND SECURITY
INVESTIGATIONS

Source: chart provided by Ben Dugan, President of C.L.E.A.R, the Coalition of Law Enforcement and Retail, a national public-private partnership of law enforcement professionals and retailers, working together to combat ORC.

Most Commonly Targeted Items for ORC



Pharmaceuticals



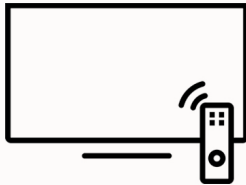
Building Supplies



Groceries



Household Goods



Electronics



Health & Beauty



Automobiles



Apparel



Clothing

SOURCE: The Coalition of Law Enforcement and Retail (CLEAR).

Products generally subject to shoplifting and those sought after through online marketplaces

| Category | Marketplaces | Visits/Month (Million) | Sales (US\$) | Theft (US\$) | Percentage of Sales Stolen | Rank |
|-------------------------|--------------|------------------------|-----------------|----------------|----------------------------|------|
| General Merchandise | 93 | 13,500 | 912,390,087,484 | 32,600,003,846 | 3.57% | 1 |
| Fashion | 31 | 644 | 452,244,692,405 | 16,348,002,633 | 3.61% | 2 |
| Arts, Crafts, Gifts | 3 | 402.5 | N/A | N/A | | |
| Homewares | 7 | 281.2 | 235,302,033,513 | 8,313,002,402 | 3.53% | 3 |
| Electronics | 6 | 80.8 | 206,584,642,838 | 7,801,817,813 | 3.78% | 4 |
| Music | 2 | 80.3 | N/A | N/A | | |
| Books | 5 | 42.8 | 29,292,502,626 | 1,003,693,094 | 3.43% | 6 |
| Sports | 3 | 22.9 | 26,464,433,086 | 932,564,028 | 3.52% | 7 |
| Musical Instruments | 1 | 16.8 | N/A | N/A | | |
| Collectibles & Antiques | 2 | 6.4 | N/A | N/A | | |
| Toys & Baby | 2 | 6 | 53,252,180,712 | 1,892,391,555 | 3.55% | 5 |

Source: The Impact of Organized Crime and Theft in the United States

| Severity ↑ | ORC Activity | Targeted Product | Retail Victims | Level of Violence | Scope | Financial Impact (per case) | Collateral Crimes |
|------------|--|--|---|-------------------------------|--|-----------------------------|--|
| | National Criminal Organizations (Control Pricing and Disrupt Infrastructure) | OTC medicines Razor blades Health and beauty aids | Pharmacies, big box, and grocery stores | Low Purposely non-violent | Transnational, national interstate theft across large geographic areas (includes e-commerce) | US\$10 - 200 Million | Interstate stolen goods, ML/wire fraud, international crimes/counterfeiting, large scale financial fraud (gov), drug trafficking, human (labor) trafficking, terrorism financing |
| | E-Commerce High Level Sell Nationally | Tools, electronics, health and beauty aids | Home improvement, electronic stores, grocers, pharmacies, big box | Moderate | Product stolen regionally; same state or neighboring states | US\$500k- 2 Million | Interstate stolen goods, narcotics trafficking, ML/wire fraud |
| | E-Commerce Local Level Sell Nationally | Tools, cosmetics, clothing and accessories | Home improvement, electronic stores, grocers, pharmacies, and big box | Moderate | Product stolen and listed locally | US\$25K- 500K | Interstate stolen goods, narcotics trafficking, ML/wire fraud |
| | Local ORC Flea Markets, Small Illicit Businesses | Laundry detergent, hand and body lotions; personal hygiene and some clothing | Dollar stores, big box, soft lines, pharmacies | High probability for violence | Product stolen and sold locally in public forum | US\$10k- 200K | Interstate stolen goods, robbery/assault, narcotics trafficking, ML/wire fraud |
| | Smash and Grabs | High dollar designer goods, jewelry, clothing | High end, soft lines, jewelry, small businesses | Very violent | Local gangs | US\$5K- 100K | Robbery/assault, burglary, narcotics trafficking |
| | Retail Theft Personal Use | All retailers | All retailers | High potential for violence | Local homeless or drug addicted | Low dollar | Narcotics, robbery/assault |

Source: chart provided by Ben Dugan, President of C.L.E.A.R.

ECONOMIC IMPACT OF ORGANIZED RETAIL CRIME

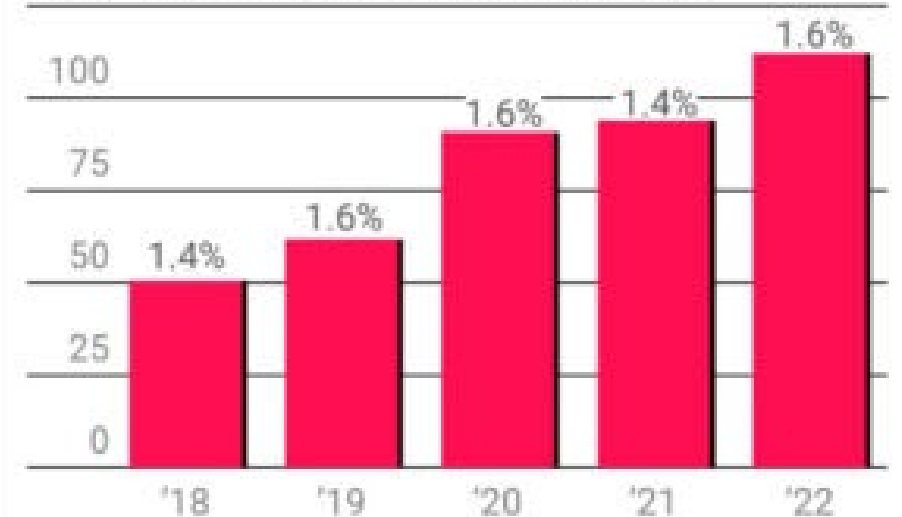
- The economic impact of retail crime is profound. Retailers face increased costs for lost product, security, and labor, which lead to higher prices for consumers and ultimately, lower sales. Lower sales translate to fewer jobs throughout the economy. The result is \$125.7 billion in lost economic activity and 658,375 fewer jobs, paying almost \$39.3 billion in wages and benefits to workers.
- National estimates reveal ORC costs federal and state governments nearly \$15 billion in lost tax revenue, not including lost sales taxes.
- It is estimated that the average American family will pay more than \$500 annually in additional costs due to the impact of ORC.
- ORC is a low-risk, high-reward income stream for domestic and transnational criminal organizations that greatly impacts inter-state and international commerce and the overall economic security of Alaska and the United States.

THERE IS A CORRELATION BETWEEN THE GROWTH IN ONLINE SHOPPING AND SHOPLIFTING



Rising Retail Theft Losses

\$125 In billions, with average shrink rate



Source: NRF National Retail Security Survey 2019-2023

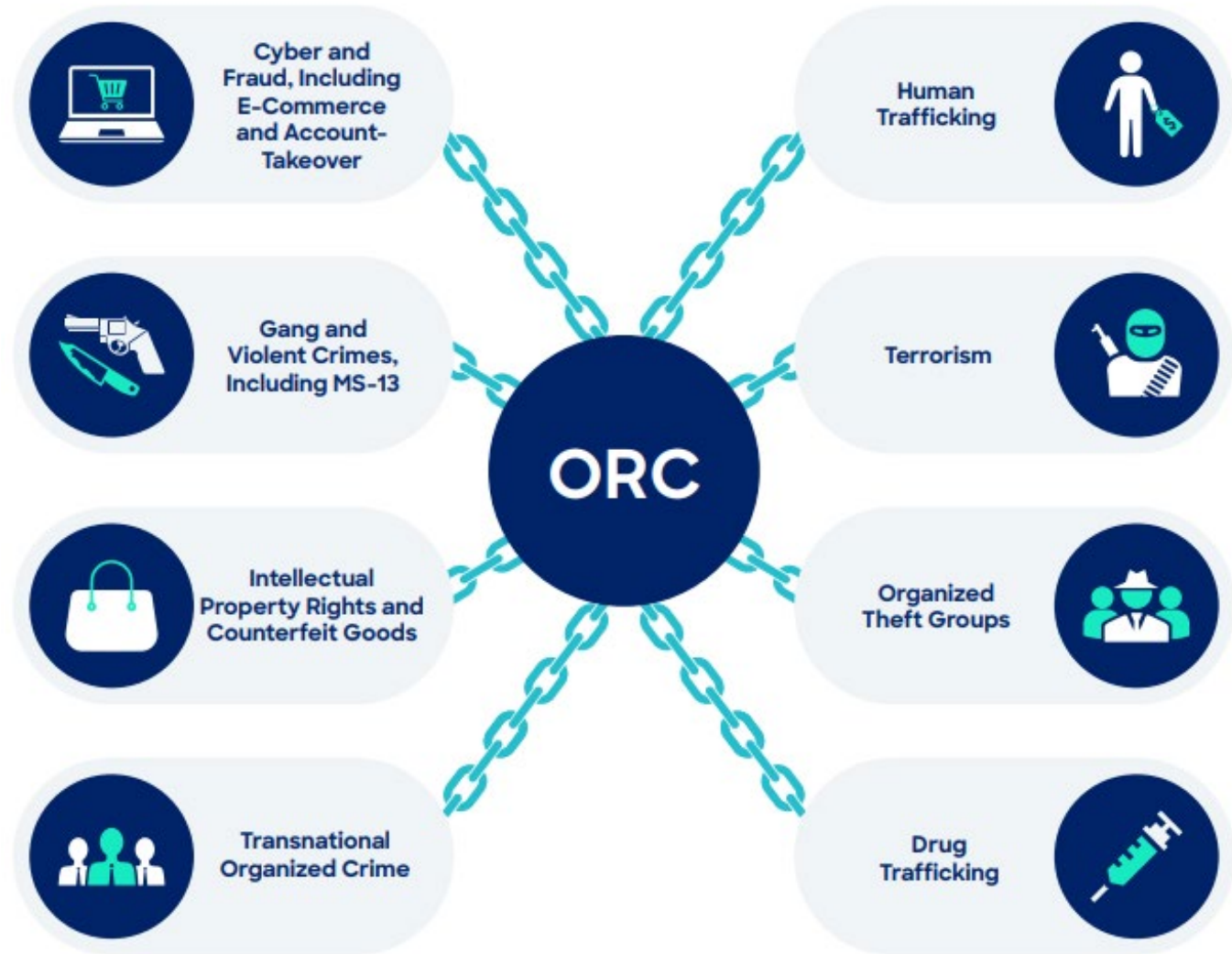
Shrink has become a bigger problem at Lowe's in recent years

The home improvement retailer lost nearly \$1 billion — more than 1% of net sales — in 2022

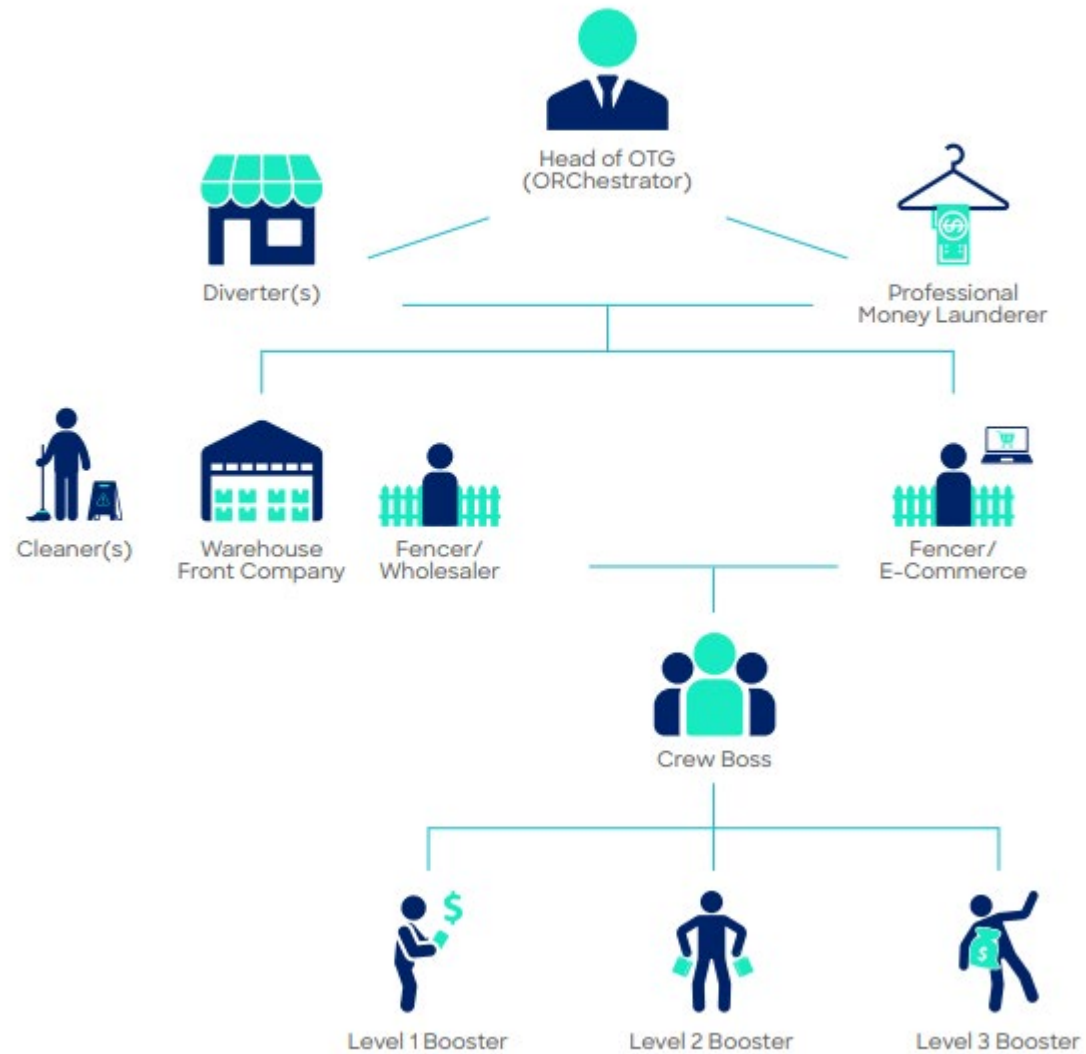
| <i>FY ending</i> | <i>Total shrink</i> | <i>% of net sales</i> |
|------------------|---------------------|-----------------------|
| Feb 3 2023 | \$997M | 1.03% |
| Jan 28 2022 | \$796M | 0.83% |
| Jan 29 2021 | \$786M | 0.88% |
| Jan 31 2020 | \$511M | 0.71% |
| Feb 1 2019 | \$468M | 0.66% |
| Feb 2 2018 | \$433M | 0.63% |
| Feb 3 2017 | \$379M | 0.58% |
| Jan 29 2016 | \$336M | 0.57% |
| Jan 30 2015 | \$322M | 0.57% |
| Jan 31 2014 | \$309M | 0.58% |
| Feb 1 2013 | \$315M | 0.62% |

Table: Gabriel Cortes / CNBC
Source: Company reports

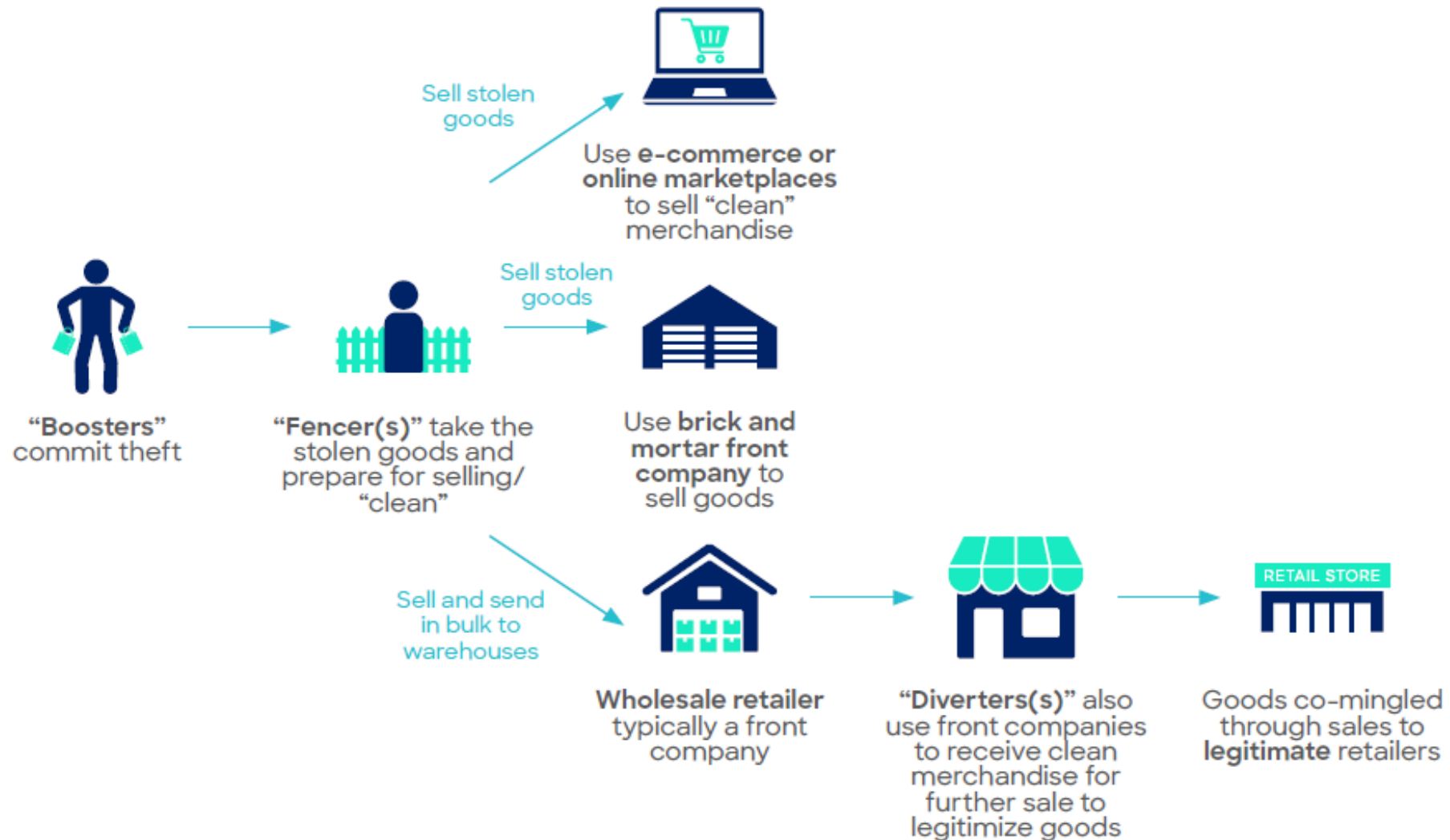




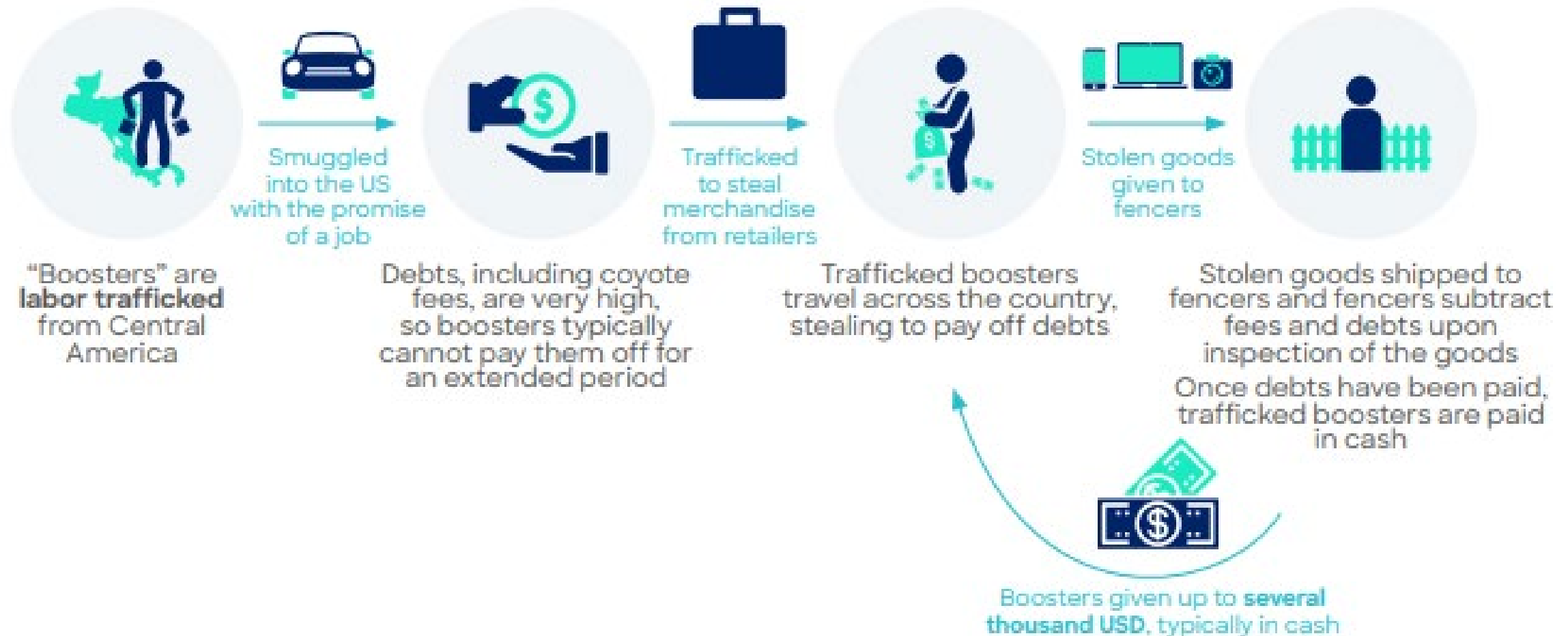
OTG Organizational Structure



The organized retail crime cycle



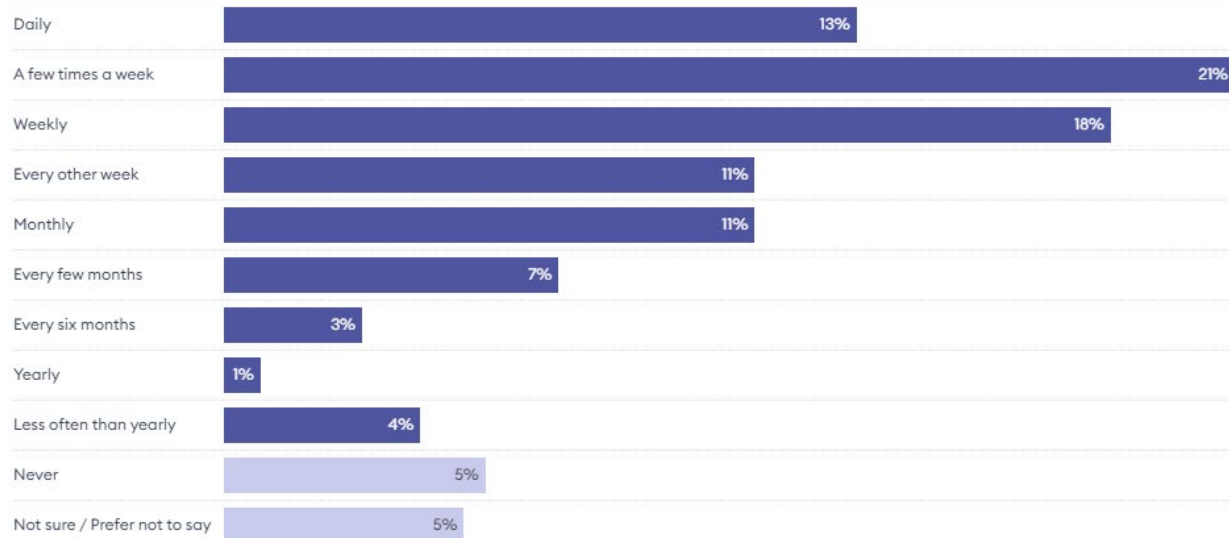
Example: Central America labor trafficking threat



IMPACT OF THEFT ON SMALL BUSINESSES

How Often Do Small Business Retailers Experience Theft?

We asked small business owners how often they experience theft by customers at their brick-and-mortar stores.

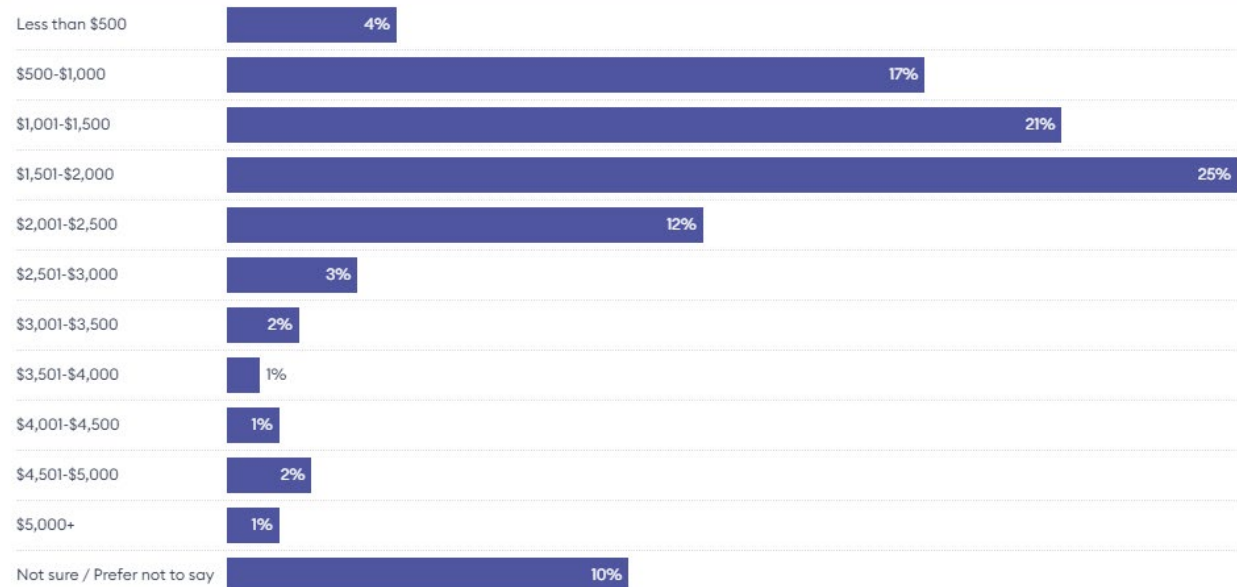


Source: Forbes Advisor 2023 Small Business Insurance Survey • Get the data • Embed

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Estimated Monthly Theft Losses According to Small Business

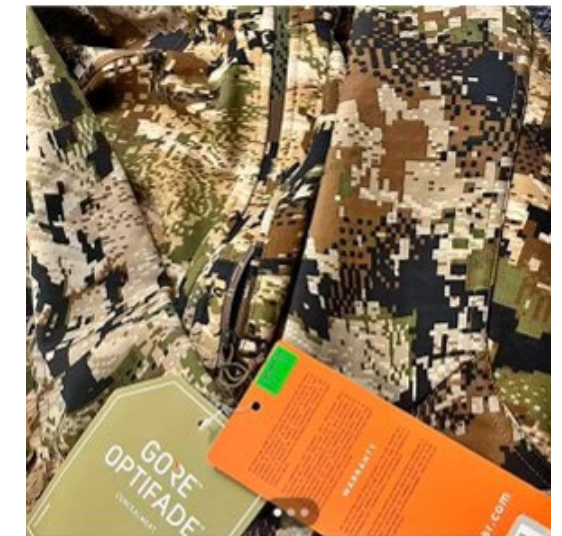
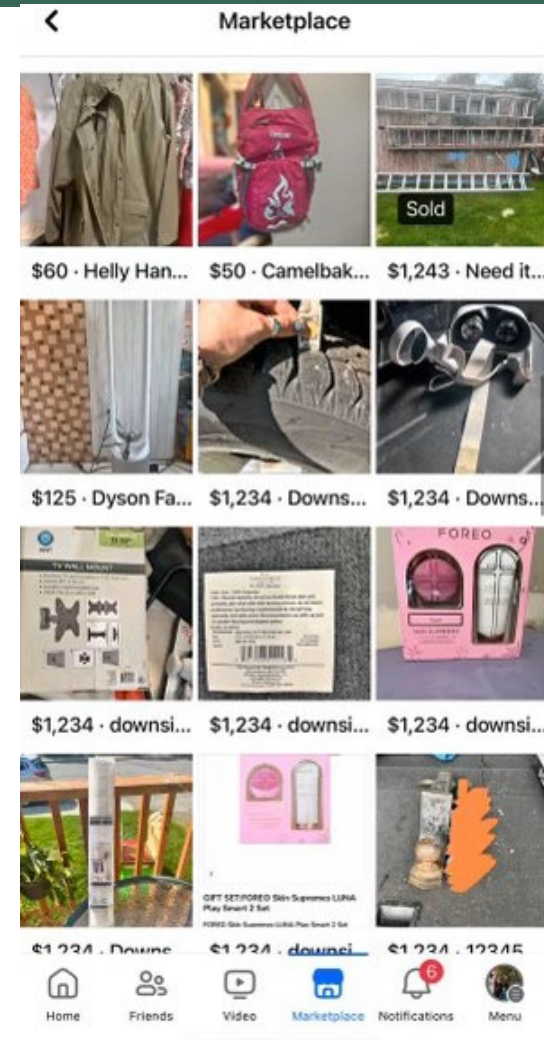
We asked small business retailers to estimate monthly losses due to theft, and the average was \$1,686.



Source: Forbes Advisor 2023 Small Business Insurance Survey • Get the data • Embed

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ORGANIZED RETAIL THEFT IN ALASKA



Mens Sitka Hunting Gear Size L For Both Pants & Pullover Sweater.
\$300 · **Sold**



Alerts



Share



Save

Description

Brand new gear, Sitka brand size large. No longer needed, need to get cash back for it asap. So \$300 OBO motivated to sell & move on.

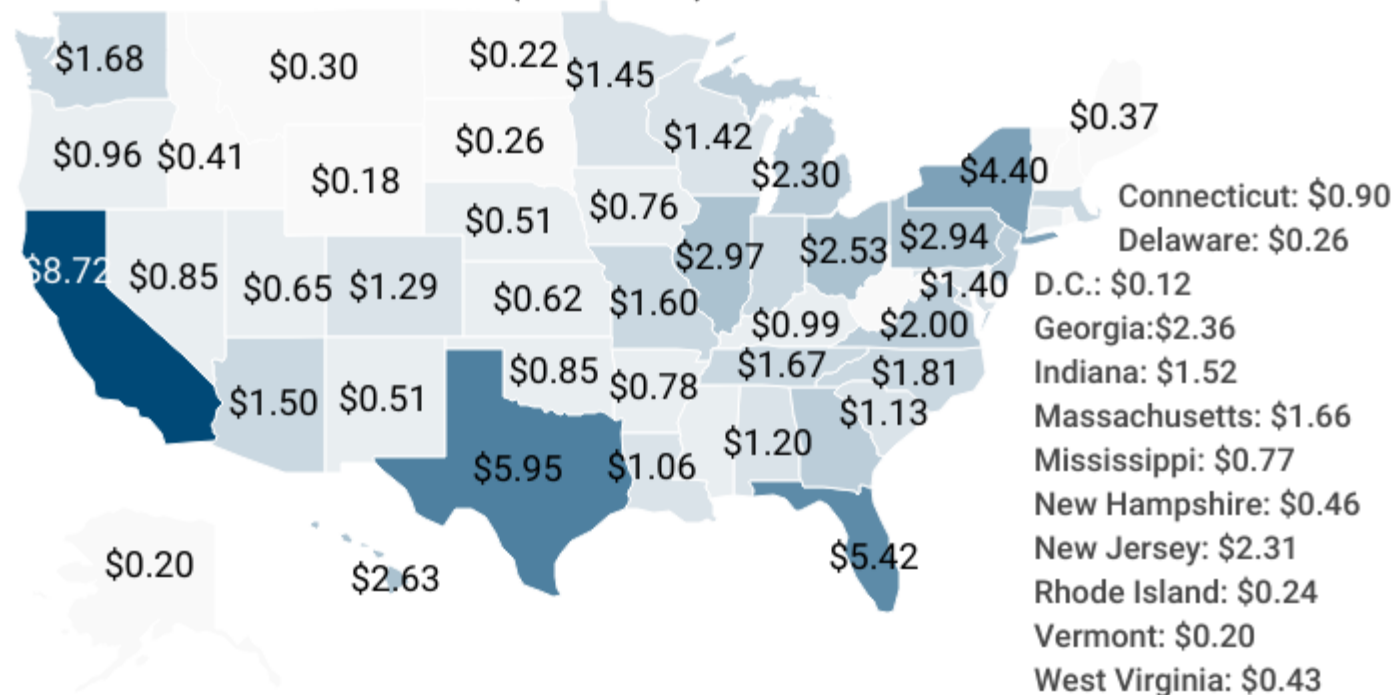
Seller information

[Seller details](#)

RETAILERS IN ALASKA LOST \$202 MILLION IN REVENUE TO THEFT IN 2022

Revenue Lost to Retail Theft

(in billions)

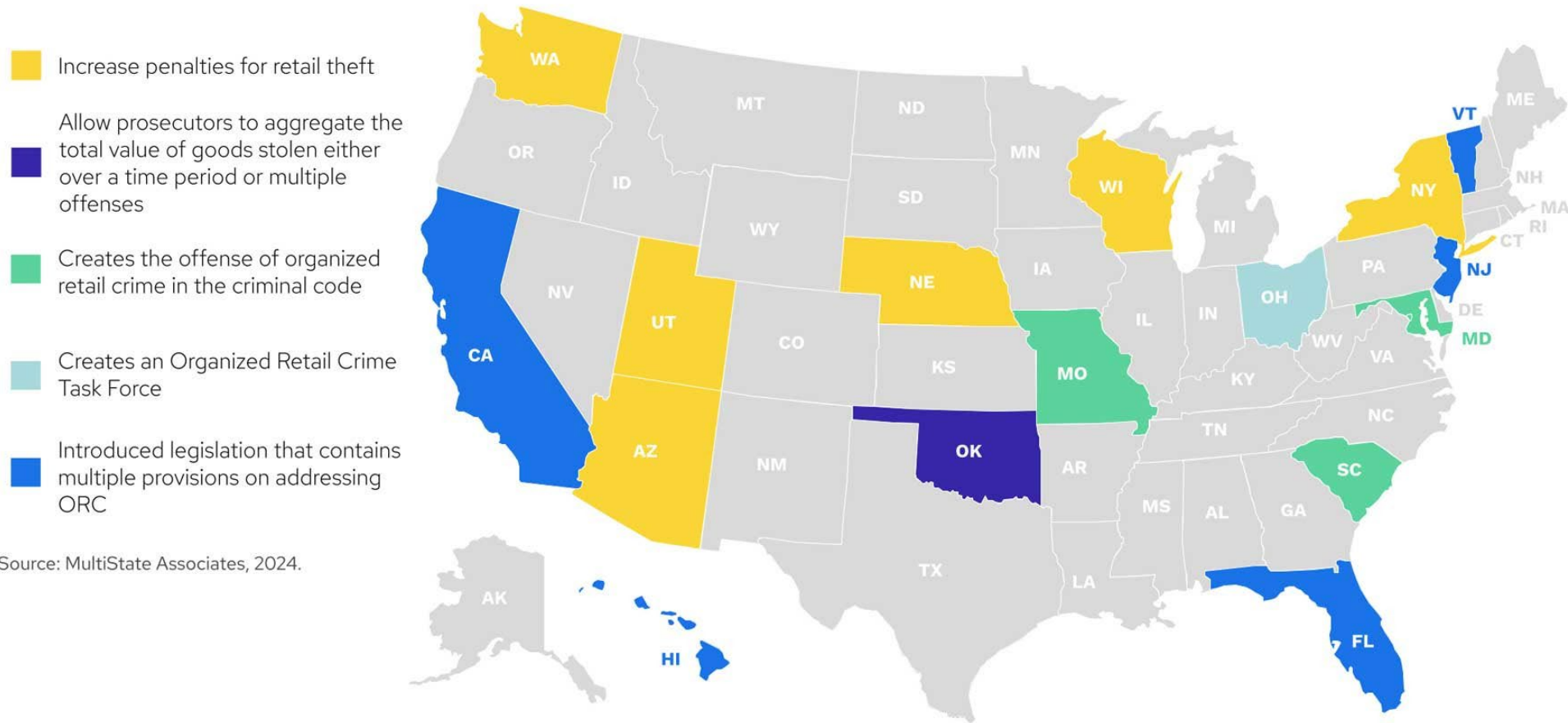


Source: National Retail Federation

<https://capitaloneshopping.com/research/shoplifting-statistics/>

WHAT IS BEING DONE TO ADDRESS ORGANIZED RETAIL CRIME?

Legislation Addressing Organized Retail Crime (ORC)



WHAT CAN WE DO TO ADDRESS THE PROBLEM?

- **Update the definition of organized retail crime and increase criminal penalties:** States should act to define the crime of “organized retail theft” in criminal law to specify those thefts involving two or more participants and an intention of resale and include increased penalties for those specific violations.
- **The law and prosecutors must hold those who engage in organized and significant retail theft accountable:** Since 2000, at least 40 states have raised the thresholds for the value of stolen goods to trigger a felony charge. In some instances, criminals are taking advantage of these increased higher thresholds to engage in repeated thefts and avoid prosecution. States should reconsider these thresholds and prosecutors should avoid adopting broad non-prosecution policies.

HB 97 DEFINES ORGANIZED RETAIL THEFT AND LOWERS THE THRESHOLD FOR FELONY OFFENSES

| Existing Criminal Code (Title 11) | Penalties for Theft proposed in HB 97 |
|--|--|
| ><u>\$25,000</u> = Theft in 1st Degree: Class B Felony | ><u>\$20,000</u> = Theft in 1st Degree: Class B Felony |
| <u>\$750</u> - <u>\$25,000</u> = Theft in 2nd Degree: Class C Felony | <u>\$500</u> - <u>\$20,000</u> = Theft in 2nd Degree: Class C Felony |
| <u>\$250</u> - <u>\$750</u> = Theft in 3rd Degree: Class A Misdemeanor | <u>\$200</u> - <u>\$500</u> = Theft in 3rd Degree: Class A Misdemeanor |
| <u><\$250</u> = Theft in 4th Degree: Class B Misdemeanor | <u><\$200</u> = Theft in 4th Degree: Class B Misdemeanor |
| | Organized Retail Theft is added as an <i>aggravating factor</i>, which allows the courts to impose a sentence above the presumptive range |

HB 97 PROPOSES A 2% SALES TAX ON 'MARKETPLACE FACILITATORS' – BOTH ONLINE & OFFLINE

- Marketplace facilitator means a person who contracts with a third-party seller to facilitate the sale of the third-party seller's property, product, or services through a physical retail location or online marketplace operated by the person.
 - The bill sets a minimum sales threshold for marketplace facilitators who must remit the tax at \$200,000 or 200 separate transactions.
- HB 97 establishes an organized retail theft fund in the general fund, intended to be appropriated to local law enforcement agencies to investigate and prosecute organized retail theft and related fraud and property crimes