

# ALASKA STATE LEGISLATURE



## REPRESENTATIVE ZACK FIELDS

Fairview • South Addition • Forest Park • Downtown • North Star

### **Sectional Analysis: HB 378 v. B**

2/27/2024

**Section 1:** amends AS 11.46.100 to modify the definition of theft in the criminal code to exclude organized retail theft.

**Section 2:** amends AS 11.46.120(a) to modify the definition of theft in the first degree.

**Section 3:** amends AS 11.46.130(a) to modify the definition of theft in the second degree.

**Section 4:** amends AS 11.46.140(a) to modify the definition of theft in the third degree.

**Section 5:** amends AS 11.46.150(a) to modify the definition of theft in the fourth degree.

**Section 6:** amends AS 11.46.180(a) to modify the definition of theft by deception.

**Section 7:** amends AS 11.46.220(a) to modify the definition of the crime of concealment of merchandise.

**Section 8:** amends AS 11.46 by adding new sections in the criminal code defining organized retail theft and laying out the penalties for each category of organized retail theft.

- Sec. 11.46.221 defines organized retail theft as a coordinated plan, with one or more conspirators, and it lists the types of actions that qualify as organized retail theft, including taking or concealing merchandise and altering a label or a price tag.
- Sec. 11.46.222 provides for each instance of organized retail theft to be grounds for charges, and sets the parameters for allegations and convictions.
- Sec. 11.46.223 sets organized retail theft in the first degree as a class A felony, applicable for a theft of merchandise valuing \$20,000 or more.
- Sec. 11.46.224 sets organized retail theft in the second degree as a class B felony, applicable for a theft of merchandise valuing greater than \$2,500 and less than \$20,000.
- Sec. 11.46.225 sets organized retail theft in the third degree as a class C felony, applicable for a theft of merchandise valuing greater than \$500 and less than \$2,500.
- Sec. 11.46.226 sets organized retail theft in the fourth degree as a class A misdemeanor, applicable for a theft of merchandise valuing greater than \$250 and less than \$500.

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- Sec. 11.46.227 sets organized retail theft in the fourth degree as a class B misdemeanor, applicable for a theft of merchandise valuing less than \$250.
- Sec. 11.46.227 provides definitions for “aggregate value” and “retailer”

**Section 9:** amends AS 11.46.980(e) to modify the definition of aggregation of amounts as it pertains to theft in the criminal code.

**Section 10:** amends AS 43 by adding a new chapter: Chapter 72: Marketplace Facilitator Sales Tax

- Sec. 43.72.010 establishes a 2% sales tax on sales made by “marketplace facilitators”
- Sec. 43.72.020 establishes a minimum sales threshold of \$100,000 or 200 individual transactions in the previous calendar year for the sales tax. Any retailer who meets the threshold is required to register with Department of Revenue. Online retailers from out-of-state who whose overall sales volume in-state reaches or exceeds the minimum sales threshold are also required to register and remit sales taxes to the state.
- Sec. 43.72.030 requires marketplace facilitators to file a tax return.
- Sec. 43.72.040 establishes an organized retail theft fund in the general fund, and grants the legislature the authority to appropriate funds to law enforcement agencies to investigate and prosecute organized retail theft. The fund is not a dedicated fund.
- Sec. 43.72.990 provides definitions for “law enforcement agency,” “marketplace facilitator,” “online marketplace,” “resident,” and “third-party seller.”
  - o The definition for “marketplace facilitator” includes a person who contracts with a third-party seller to facilitate the sale of the third-party seller’s property through either a physical retail location or online marketplace.

**Section 11:** provides for the taxation provisions laid out in Section 10 to apply on or after the effective date of this bill.

**Section 12:** permits the Department of Revenue to adopt regulations to implement this bill.

**Section 13:** sets an immediate effective date.