

HOUSE BILL 1173

E1
HB 446/21 – JUD

2lr2608
CF SB 619

By: **Delegates McComas, Boteler, Chisholm, M. Fisher, Kipke, Krebs, and McKay**
Introduced and read first time: February 11, 2022
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Organized Retail Theft**

3 FOR the purpose of providing that multiple thefts committed by the same person in
4 multiple counties under one scheme or continuing course of conduct may be joined
5 and prosecuted in a certain county; providing that certain misdemeanor charges may
6 not be aggregated to constitute a felony; establishing requirements for a court to
7 make a finding as to whether a theft meets a definition of organized retail theft for
8 purposes of reporting to the Criminal Justice Information System Central
9 Repository; and generally relating to organized retail theft.

10 BY repealing and reenacting, with amendments,
11 Article – Criminal Law
12 Section 7–103(f)
13 Annotated Code of Maryland
14 (2021 Replacement Volume and 2021 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Criminal Procedure
17 Section 2–203
18 Annotated Code of Maryland
19 (2018 Replacement Volume and 2021 Supplement)

20 BY adding to
21 Article – Criminal Procedure
22 Section 6–236
23 Annotated Code of Maryland
24 (2018 Replacement Volume and 2021 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



Article – Criminal Law

1
2 7–103.

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

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

6 [(2)] (II) **EXCEPT AS PROVIDED IN PARAGRAPH (2)(II) OF THIS**
7 **SUBSECTION**, the value of the property or services may be aggregated in determining
8 whether the theft is a felony or a misdemeanor.

9 (2) (I) **MULTIPLE THEFTS COMMITTED BY THE SAME PERSON IN**
10 **MULTIPLE COUNTIES UNDER ONE SCHEME OR CONTINUING COURSE OF CONDUCT**
11 **MAY BE JOINED AND PROSECUTED IN ANY COUNTY IN WHICH ANY ONE OF THE**
12 **THEFTS OCCURRED.**

13 (II) **MISDEMEANOR CHARGES FROM DIFFERENT COUNTIES MAY**
14 **NOT BE AGGREGATED TO CONSTITUTE A FELONY UNDER THIS PARAGRAPH.**

Article – Criminal Procedure

15
16 2–203.

17 (a) A police officer without a warrant may arrest a person if the police officer has
18 probable cause to believe:

19 (1) that the person has committed a crime listed in subsection (b) of this
20 section; and

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

22 (i) may not be apprehended;

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

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

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

26 (1) manslaughter by vehicle or vessel under § 2–209 of the Criminal Law
27 Article;

28 (2) malicious burning under § 6–104 or § 6–105 of the Criminal Law Article
29 or an attempt to commit the crime;

1 (3) malicious mischief under § 6–301 of the Criminal Law Article or an
2 attempt to commit the crime;

3 (4) a theft crime where the value of the property or services stolen is less
4 than ~~[\$1,000]~~ **\$1,500** under § 7–104 [or § 7–105] of the Criminal Law Article, **INCLUDING**
5 **§ 7–104(G)(4) OF THE CRIMINAL LAW ARTICLE**, or an attempt to commit the crime;

6 (5) the crime of giving or causing to be given a false alarm of fire under §
7 9–604 of the Criminal Law Article;

8 (6) indecent exposure under § 11–107 of the Criminal Law Article;

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

11 (8) the wearing, carrying, or transporting of a handgun under § 4–203 or §
12 4–204 of the Criminal Law Article;

13 (9) carrying or wearing a concealed weapon under § 4–101 of the Criminal
14 Law Article;

15 (10) prostitution and related crimes under Title 11, Subtitle 3 of the
16 Criminal Law Article; and

17 (11) violation of a condition of pretrial or posttrial release under § 5–213.1
18 of this article.

19 **6–236.**

20 (A) IN THIS SECTION, “ORGANIZED RETAIL THEFT” MEANS THE
21 COMMISSION, EITHER ALONE OR WITH ONE OR MORE OTHER PERSONS, OF A SERIES
22 OF THEFTS OF RETAIL MERCHANDISE FROM ONE OR MORE RETAIL MERCHANTS
23 WITH THE INTENT TO:

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

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

26 (B) (1) IF A DEFENDANT IS CONVICTED OF OR RECEIVES A PROBATION
27 BEFORE JUDGMENT DISPOSITION FOR THEFT UNDER § 7–104 OF THE CRIMINAL
28 LAW ARTICLE, ON REQUEST OF THE STATE’S ATTORNEY THE COURT SHALL MAKE A
29 FINDING OF FACT BASED ON EVIDENCE PRODUCED AT TRIAL AS TO WHETHER THE
30 CRIME IS ORGANIZED RETAIL THEFT.

31 (2) THE STATE HAS THE BURDEN OF PROVING BY A PREPONDERANCE

1 OF THE EVIDENCE THAT THE CRIME IS ORGANIZED RETAIL THEFT.

2 (C) IF THE COURT FINDS THAT THE CRIME IS ORGANIZED RETAIL THEFT
3 UNDER SUBSECTION (B) OF THIS SECTION, THAT FINDING SHALL BECOME PART OF
4 THE COURT RECORD FOR PURPOSES OF REPORTING TO THE CRIMINAL JUSTICE
5 INFORMATION SYSTEM CENTRAL REPOSITORY UNDER § 10-215 OF THIS ARTICLE.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2022.