



www.lsc.ohio.gov

# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 366  
135<sup>th</sup> General Assembly

## Final Analysis

[Click here for H.B. 366's Fiscal Note](#)

**Primary Sponsor:** Rep. Ghanbari

**Effective date:** April 9, 2025

Ashley F. Dean, Attorney

## SUMMARY

### **Fight Organized Retail Crime and Empower Law Enforcement (FORCE) Act**

- Names the act the Fight Organized Retail Crime and Empower Law Enforcement (FORCE) Act.

### **Organized Retail Theft Task force**

- Establishes the Organized Retail Theft Task Force within the Organized Crime Investigations Commission to investigate retail theft activity, including cargo theft, and any complaint received involving retail theft.
- Requires the Organized Crime Investigation Commission to appoint a director and specified members of the Organized Retail Theft Task Force.
- Increases the fee for a sales tax vendor license from \$25 to \$50, and directs that additional money to be used by the Organized Crime Investigations Commission exclusively to support the operations of the Organized Retail Theft Task Force.

### **Organized Retail Theft Advisory Council**

- Creates the Organized Retail Theft Advisory Council within the Attorney General's office.
- Requires the Organized Retail Theft Advisory Council to advise the Organized Crime Investigations Commission on organized retail theft and recommend actions for the commission to detect, deter, prevent, and prosecute organized retail theft.

### **Theft**

- Specifies that an offender is guilty of grand theft, a fourth degree felony, if the offender is guilty of a felony theft offense within the previous three years.

- Specifies that an offender is guilty of aggravated theft, a third degree felony, if the offender two or more times is guilty of a felony theft offense within the previous three years.
- Specifies that an offender is guilty of theft from a person in a protected class, a fourth degree felony, if the offender is guilty of a felony theft offense within the previous three years, and a third degree felony if the offender two or more times is guilty of a felony theft offense within the previous three years.

## **Theft of mail**

- Creates the offense of theft of mail, which is generally a fifth degree felony, but can escalate as high as a first degree felony depending on the value of the mail stolen and other specified circumstances.

## **Organized theft of retail property**

- Creates the offense of organized theft of retail property and specifies that organized theft of retail property is generally a third degree felony, but can escalate as high as a first degree felony depending on the value of the retail property stolen and other specified circumstances.
- Provides that when determining whether the retail value of retail property equals or exceeds \$1,000, the value of all retail property stolen from the retail establishment or retail establishments by the same person or persons within any 6-month period will be aggregated.
- Provides that a prosecution for a violation of organized theft of retail property does not preclude a prosecution for theft, receiving stolen property, criminal simulation, or engaging in a pattern of corrupt activity related to organized retail theft based on the same conduct.
- Provides that if an offender is guilty of organized theft of retail property and is also guilty of theft, receiving stolen property, criminal simulation, or engaging in a pattern of corrupt activity related to organized retail theft based on the same conduct, the two or more offenses will be considered as allied offenses of similar import.

## **Counterfeiting**

- Expands the offense of counterfeiting.

## **Corrupt activity**

- Provides that if a pattern of corrupt activity involves one or more incidents of organized retail theft, certain entities whose retail property was allegedly stolen may contact the prosecuting attorney and request that the charge be aggregated with other known thefts of retail property.

## Securities Law

- Revises a provision of the Ohio Securities Law that allows a corporation to recover profit derived from the sale of securities by a person who proposes to, or publicly discloses the intention of, acquiring control of a corporation.
- Limits application of that remedy to situations in which the person selling the securities engages in “manipulative practices,” by staging a hostile takeover bid to manipulate a corporation or committing any other act that the Ohio Division of Securities defines as manipulative.

## Definitions

- Defines “access device,” “cargo theft,” “encoding machine,” “enterprise,” “gift card,” “mail,” “merchant,” “retail property,” “retail property fence,” “retail value,” “scanning device,” and “theft.”

---

## TABLE OF CONTENTS

Definitions.....	3
Fight Organized Retail Crime and Empower Law Enforcement (FORCE) Act.....	3
Organized Retail Theft Task Force.....	4
Creation of Task Force.....	4
Organized Retail Theft Advisory Council.....	4
Theft.....	5
Theft of mail.....	6
Organized theft of retail property.....	6
Counterfeiting.....	8
MCorrupt activity.....	9
Securities Law.....	9
Definitions.....	10

---

## DETAILED ANALYSIS

### Fight Organized Retail Crime and Empower Law Enforcement (FORCE) Act

The act is named the Fight Organized Retail Crime and Empower Law Enforcement (FORCE) Act.<sup>1</sup>

---

<sup>1</sup> Section 3.

## **Organized Retail Theft Task Force**

### **Creation of Task Force**

The act establishes an Organized Retail Theft Task Force within the Organized Crime Investigations Commission to investigate organized retail theft activity, including cargo theft. The Task Force may investigate based on any complaint filed or information the Task Force receives that gives reason to believe organized retail theft has occurred and continues to occur in one or more counties. The Task Force director and members of the Task Force must be appointed in the same manner as an organized crime task force established under continuing law.<sup>2</sup>

Under continuing law, unless a statutory exception applies, any person engaged in making retail sales subject to sales tax is required to have a vendor's license. Application for a vendor's license must be made to the county auditor of each county in which the applicant desires to engage in business. Each applicant is required to pay a license fee to the county treasury for each fixed place of business in the county that will be the situs of retail sales. The act increases this fee from \$25 to \$50, and requires the county auditor to transmit \$25 of each license fee to the State Treasurer for deposit into the state treasury to the credit of the Organized Crime Commission Fund. The act directs that this money is to be used by the Organized Crime Investigations Commission exclusively to support the operations of the Organized Retail Theft Task Force.<sup>3</sup>

### **Organized Retail Theft Advisory Council**

The act creates the Organized Retail Theft Advisory Council within the Attorney General's Office, and it consists of the following members:<sup>4</sup>

- The Attorney General or the Attorney General's designee;
- An employee of the Attorney General's Office appointed by the Attorney General;
- The president or chief executive officer of the Ohio Council of Retail Merchants, or the president's or chief executive officer's designee;
- Two loss prevention representatives from retail businesses with more than 250 employees and two loss prevention representatives from retail businesses with less than 250 employees;
- A member of the Ohio Prosecuting Attorneys Association, or a member of the Ohio Prosecuting Attorneys Association's designee;
- A member of the Ohio Grocers Association, or a member of the Ohio Grocers Association's designee.

The Attorney General must appoint the loss prevention representatives to the Advisory Council after consulting with statewide trade and professional organizations that represent the

---

<sup>2</sup> R.C. 177.02(B)(2) and (3).

<sup>3</sup> R.C. 177.011(A)(2) and (D), 177.02(D)(4), and 5739.17.

<sup>4</sup> R.C. 177.04(A).

interests of retail businesses and loss prevention, and the organizations are allowed to nominate persons to be considered for appointment as council members.<sup>5</sup>

The Advisory Council must advise the Organized Crime Investigations Commission on organized retail theft and recommend actions for the Commission to detect, deter, prevent, and prosecute organized retail theft, and must meet at least quarterly. The Attorney General or the Attorney General's designee is the chairperson of the Advisory Council. The employee of the Attorney General's Office appointed to the Advisory Council must serve as liaison to the Organized Retail Theft Task Force. Members of the Advisory Council are not compensated, but are reimbursed for actual and necessary expenses incurred in performing their official duties. The Organized Crime Investigations Commission may provide the Advisory Council with technical and clerical employees as necessary to accomplish its responsibilities mentioned under the act.<sup>6</sup>

In addition to the duties described above, the act allows the Advisory Council to engage in the following activities:<sup>7</sup>

- Compiling and disseminating to retail businesses and law enforcement agencies innovative methods of detecting, deterring, preventing, and prosecuting organized retail theft;
- Conducting training conferences to educate retail businesses and law enforcement agencies regarding current and emerging crime trends;
- Consulting with national, state, and local law enforcement agencies and retail associations concerning organized retail theft;
- Educating the public on the problems associated with organized retail theft.

The Advisory Council must share information and intelligence on organized retail theft, compliant with applicable data privacy laws, between retail businesses and law enforcement agencies to enhance the identification of offenders and the targeting of criminal enterprises.<sup>8</sup>

## Theft

The act modifies the penalties for theft as follows:

- For grand theft, a fourth degree felony if the offender has been convicted of or pleaded guilty to a felony theft offense within the previous three years.<sup>9</sup>
- For aggravated theft, a third degree felony if the offender two or more times has been convicted of or pleaded guilty to a felony theft offense within the previous three years.<sup>10</sup>

---

<sup>5</sup> R.C. 177.04(B).

<sup>6</sup> R.C. 177.04(C) and (E).

<sup>7</sup> R.C. 177.04(D).

<sup>8</sup> R.C. 177.04(F).

<sup>9</sup> R.C. 2913.02(B)(2).

<sup>10</sup> R.C. 2913.02(B)(2).

- For theft from a person in a protected class, a fourth degree felony if the offender has been convicted of or pleaded guilty to a felony theft offense within the previous three years, and a third degree felony if the offender two or more times has been convicted of or pleaded guilty to a felony theft offense within the previous three years.<sup>11</sup>

## Theft of mail

The act creates the offense of theft of mail , prohibiting a person, with purpose to deprive the owner of mail, from knowingly obtaining or exerting control over the “mail” in any of the following ways (see “**Definitions**,” below):<sup>12</sup>

- Without the consent from the owner or person authorized to give consent;
- Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
- By deception;
- By threat;
- By intimidation.

The offense of theft of mail is a fifth degree felony. If the value of the mail is \$7,500 or more or, in the case of a victim who is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member, \$1,000 or more, the penalties for theft of mail escalate from a fourth degree felony to a first degree felony, based on the value of the stolen mail.<sup>13</sup>

A prosecution for theft of mail does not preclude a prosecution of a violation of any other Revised Code section. Under the act, one or more acts, a series of acts, or a course of behavior that can be prosecuted under theft of mail, or any other Revised Code section may be prosecuted under theft of mail, another section, or both. However, if an offender is convicted of or pleads guilty to theft of mail and is also convicted of or pleads guilty to theft based on the same conduct involving the same victim that was the basis of the theft of mail violation, the two offenses are allied offenses of similar import.<sup>14</sup>

## Organized theft of retail property

The act creates the offense of organized theft of retail property, prohibiting the following:<sup>15</sup>

- A person from knowingly committing “theft” of “retail property” with a “retail value” of \$7,500 or more from a retail establishment, manufacturer, distributor, or cargo

---

<sup>11</sup> R.C. 2913.02(B)(3).

<sup>12</sup> R.C. 2913.021(B).

<sup>13</sup> R.C. 2913.02(B)(2) and (3) and 2913.021(C).

<sup>14</sup> R.C. 2913.021(D).

<sup>15</sup> R.C. 2913.08(B), (C), (D), and (E).

transportation unit for purposes of selling, delivering, or transferring that property to a “retail property fence” or for purposes of selling, delivering, transferring, exchanging, or returning the retail property for value (see “**Definitions**,” below);

- A person employed by, or associated with an “enterprise,” (see “**Definitions**,” below) from receiving, purchasing, or possessing retail property with a retail value of \$7,500 or more if the person knows, believes, or has reasonable cause to believe that the property has been obtained by theft;
- A person from knowingly acting as an agent of an enterprise to steal retail property with a retail value of \$7,500 or more from a retail establishment, manufacturer, distributor, or cargo transportation unit as part of an organized plan to commit theft;
- A person from knowingly recruiting, coordinating, organizing, supervising, directing, managing, or financing an enterprise to commit any of the acts described above.

The penalty for organized theft of retail property depends on the retail value of the items stolen. If the retail value is less than \$750,000, organized theft of retail property is a third degree felony. If the retail value is \$750,000 or more but less than \$1,500,000, organized theft of retail property is a second degree felony. If the retail value of the property is \$1,500,000 or more, organized theft of retail property is a first degree felony.<sup>16</sup>

The act specifies that if organized theft of retail property is a third degree felony and if the offender previously has been convicted of or pleaded guilty to organized theft of retail property or, within the prior three years, any felony theft offense, there is a presumption of a prison term for the offense. If organized theft of retail property is a third degree felony and if the offender two or more times previously has been convicted of or pleaded guilty to organized theft of retail property, or, within the prior three years, two or more felony theft offenses, the court must impose as a mandatory prison term one of the prison terms prescribed for a third degree felony.<sup>17</sup>

When determining whether the retail value of retail property equals or exceeds \$7,500, the value of all retail property stolen from the retail establishment or retail establishments by the same person or persons within any 12-month period will be aggregated.<sup>18</sup> A prosecution for organized theft of retail property does not preclude a prosecution for theft, receiving stolen property, criminal simulation, or engaging in a pattern of corrupt activity related to organized retail theft based on the same conduct. However, if an offender is convicted of or pleads guilty to a violation of organized theft of retail property and is also convicted of or pleads guilty to a violation of theft, receiving stolen property, criminal simulation, or engaging in a pattern of corrupt activity related to organized retail theft based on the same conduct that was the basis of

---

<sup>16</sup> R.C. 2913.08(F).

<sup>17</sup> R.C. 2913.08(F).

<sup>18</sup> R.C. 2913.08(G).

the violation of organized theft of retail property, the two or more offenses are allied offenses of similar import.<sup>19</sup>

The act adds the offense of organized theft of retail property to the list of offenses that constitute a “theft offense” for purposes of the use of that term in Ohio’s Theft and Fraud Law, and certain other specified places throughout the Revised Code that reference a “theft offense” as defined in Ohio’s Theft and Fraud Law.<sup>20</sup>

## Counterfeiting

Under continuing law, the offense of counterfeiting prohibits a person, with purpose to defraud or knowing that the person is facilitating a fraud, from doing any of the following:<sup>21</sup>

- Falsely making, forging, counterfeiting, or altering any U.S. obligation or other security;
- Passing, uttering, selling, purchasing, concealing, or transferring any counterfeit U.S. obligation or other security;
- Possessing with the purpose to utter any U.S. obligation or other security, knowing that the obligation or other security has been counterfeited;
- Without authorization of the issuer, falsely making, forging, counterfeiting, altering, or knowingly possessing any access device.

The act expands the offense of counterfeiting to also prohibit the following:<sup>22</sup>

1. Directly or indirectly using a “scanning device” to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on an “access device” without the permission of the authorized user of the access device, the financial institution issuing the authorized user’s access device, or a “merchant” (see “**Definitions**,” below);
2. Directly or indirectly using an “encoding machine” to place information encoded on an access device onto a different access device without the permission of the authorized user of the access device from which the information was obtained, the financial institution issuing the authorized user’s access device, or a merchant (see “**Definitions**,” below).

Counterfeiting is generally a fourth degree felony, and the court must impose on the offender a fine ranging from \$500 to \$5,000. If the value of the counterfeited obligations or other securities or access devices is \$5,000 or more but less than \$100,000, or if the offense involves five or more access devices, counterfeiting is a third degree felony. If the value is \$100,000 or

---

<sup>19</sup> R.C. 2913.08(G) and (H).

<sup>20</sup> R.C. 2913.01(K).

<sup>21</sup> R.C. 2913.30(B).

<sup>22</sup> R.C. 2913.30(B)(5) and (6).



more but less than \$1,000,000, counterfeiting is a second degree felony. If the value is \$1,000,000 or more, counterfeiting is a first degree felony.<sup>23</sup>

## **Corrupt activity**

Under continuing law, unchanged by the act, a person is prohibited from engaging in a “pattern of corrupt activity.” A pattern of corrupt activity means two or more incidents of corrupt activity related to the affairs of the same enterprise, regardless of whether there has been a conviction. The incidents must neither be isolated nor so closely related to each other and connected in time and place that they constitute a single event; at least one of the incidents must have occurred on or after January 1, 1986, and generally, the last of the incidents must have occurred within six years of any of the prior incidents.<sup>24</sup>

A person who engages in a pattern of corrupt activity may be subject to criminal penalties and fines, property forfeiture, a civil proceeding from a person seeking relief, and a corrupt activity lien.<sup>25</sup> The act further specifies that if a pattern of corrupt activity involves one or more incidents of organized retail theft, the retail establishment, manufacturer, distributor, cargo transportation unit, online marketplace, or group of those entities whose retail property is alleged to have been stolen may contact the prosecuting attorney and request that the charge be aggregated with other thefts of retail property about which the retail establishment or group of establishments is aware. In determining whether the retail value of stolen retail property equals or exceeds \$1,000, the value of all retail property stolen from the retail establishment or group of establishments by the same person or persons within any six-month period must be aggregated.<sup>26</sup>

## **Securities Law**

Ohio corporations and their shareholders are permitted, under continuing law, to recover any profits realized from the “disposition of equity securities” by a person from the sale of the corporation’s shares when the shares are sold within 18 months after such person either (1) proposed to acquire control of the corporation, or (2) publicly disclosed the intention or possibility of making such proposal. Prior law provided that such remedy is available for the purpose of “preventing manipulative practices.”

The act specifies that such remedy is not available unless the person who proposed acquiring control of the corporation actually engaged in manipulative practices. Furthermore, the act defines “manipulative practices” as the act of staging a hostile takeover bid to manipulate a corporation into repurchasing its own common stock at a premium above the current market price, or any other act that the Ohio Division of Securities defines as a “manipulative practice” pursuant to existing law authority.

---

<sup>23</sup> R.C. 2913.30(C).

<sup>24</sup> R.C. 2923.31(E), not in the act.

<sup>25</sup> R.C. 2923.32 and R.C. 2923.34 and 2923.36, not in the act.

<sup>26</sup> R.C. 2923.32(C).

Previously, “disposition of equity securities of a corporation” was defined as any sale exchange, transfer, or other disposition of any kind of the equity securities or any contract to sell, exchange, transfer, or otherwise dispose of the equity securities to any other person, including the corporation for valuable consideration. The act revises the definition by including only the sale, exchange, transfer, or other dispositions made to the corporation qualify under the statute. The act also specifies that “to acquire control of the corporation” does not include attempts by shareholders to generally influence a corporation’s policies or actions, including the nomination of candidates for director of the corporation.<sup>27</sup>

## Definitions

The act defines the following terms:<sup>28</sup>

- **“Access device”** means any debit or credit card representing a monetary security or retail amount by any financial institution, including a bank, savings bank, savings and loan association, credit union, or business entity. “Access device” includes a gift card.
  - **“Gift card”** means a certificate, electronic card, or other medium issued by a merchant that evidences the giving of consideration in exchange for the right to redeem the certificate, electronic card, or other medium for goods, food, services, credit, or money of at least an equal value, including any electronic card issued by a merchant with a monetary value where the issuer has received payment for the full monetary value for the future purchase or delivery of goods or services and any certificate issued by a merchant where the issuer has received payment for the full monetary face value of the certificate for the future purchase or delivery of goods and services. “Gift card” does not include a prepaid calling card used to make telephone calls.
- **“Cargo theft”** means the unlawful taking of any cargo including goods, chattels, money, or baggage that constitutes a commercial shipment of freight moving in any of the following:
  - Commerce;
  - A pipeline system;
  - A railroad car;
  - A motor truck or other vehicle;
  - A tank or storage facility;
  - A station house, platform, or depot;
  - A vessel or wharf;

---

<sup>27</sup> R.C. 1707.043.

<sup>28</sup> R.C. 177.02(A)(1), 2913.08(A), 2913.021(A), 2913.30(A), and 1349.61(E)(1), incorporated in the act by reference.

- An aircraft, airport terminal, airport, aircraft terminal, or air navigation facility;
- An intermodal container, intermodal chassis, trailer, container freight station, warehouse, freight distribution facility, or freight consolidation facility.
- **“Encoding machine”** means an electronic device that is used to encode information onto an access device.
- **“Enterprise”** includes any individual, sole proprietorship, partnership, limited partnership, corporation, trust, union, government agency, or other legal entity, or any organization, association, or group of persons associated in fact although not a legal entity. “Enterprise” includes illicit as well as licit enterprises.
- **“Mail”** means any letter, card, parcel, or other material, along with its contents, that is received, accepted for delivery, delivered, or left for collection by a postal service, including the U.S. Postal Service, a common carrier, or a private delivery service.
- **“Merchant”** means an owner or operator of a retail establishment or an agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of the owner or operator.
- **“Retail property”** means any tangible personal property displayed, held, stored, transported, or offered for sale in or by a retail establishment, manufacturer, distributor, or an online marketplace. “Retail property” includes gift cards.
- **“Retail property fence”** means an enterprise that possesses, procures, receives, or conceals retail property that was represented to the enterprise as being stolen or that the enterprise knows or believes to be stolen.
- **“Retail value”** means the full retail value of the retail property, including all applicable taxes and shipping costs.
- **“Scanning device”** means a scanner, reader, wireless access device, radio frequency identification scanner, an electronic device that utilizes near field communication technology, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on an access device.
- **“Theft”** means conduct that would constitute a violation of the prohibition against theft, which is when a person, with purpose to deprive the owner of property, knowingly obtains or exerts control over the property without consent from the owner, beyond the scope of express or implied consent of the owner or person authorized to give consent, by deception, by threat, or by intimidation.

---

---

## HISTORY

Action	Date
Introduced	12-19-23
Reported, H. Criminal Justice	06-25-24
Passed House (69-27)	06-26-24
Reported, S. Judiciary	12-18-24
Passed Senate (30-0)	12-18-24
House concurred in Senate amendments (83-6)	12-18-24

---