



125th MAINE LEGISLATURE

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Legislative Document

No. 648

H.P. 478

House of Representatives, February 17, 2011

An Act To Prohibit Organized Retail Theft

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative PLUMMER of Windham.
Cosponsored by Representatives: BURNS of Whiting, HARVELL of Farmington, SHAW of Standish.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 17-A MRSA §353-A** is enacted to read:

3 **§353-A. Organized retail theft**

4 **1. A person is guilty of theft if:**

5 A. The person obtains or exercises unauthorized control over the property of another
6 using an organized retail scheme and with intent to deprive the other person of the
7 property. Violation of this paragraph is a Class E crime; or

8 B. The person violates paragraph A and:

9 (1) The value of the property is more than \$10,000. Violation of this
10 subparagraph is a Class B crime;

11 (2) The property stolen is a firearm or an explosive device. Violation of this
12 subparagraph is a Class B crime;

13 (3) The person is armed with a dangerous weapon at the time of the offense.
14 Violation of this subparagraph is a Class B crime;

15 (4) The value of the property is more than \$1,000 but not more than \$10,000.
16 Violation of this subparagraph is a Class C crime;

17 (5) The value of the property is more than \$500 but not more than \$1,000.
18 Violation of this subparagraph is a Class D crime; or

19 (6) The person has 2 or more prior convictions for any combination of the Maine
20 offenses listed in this subparagraph or for engaging in substantially similar
21 conduct to that of the Maine offenses listed in this subparagraph in another
22 jurisdiction. The Maine offenses are: theft; any violation of section 401 in which
23 the crime intended to be committed inside the structure is theft; any violation of
24 section 405 in which the crime intended to be committed inside the motor vehicle
25 is theft; any violation of section 651; any violation of section 702, 703 or 708; or
26 attempts to commit any of these crimes. Section 9-A governs the use of prior
27 convictions when determining a sentence. Violation of this subparagraph is a
28 Class C crime.

29 **2. For purposes of this section, an organized retail scheme is used when the property**
30 **over which the person obtains or exercises unauthorized control is merchandise offered**
31 **for sale by a retail store and the person:**

32 A. Acts in concert with one or more retail store employees or other persons to obtain
33 or exercise unauthorized control over the property;

34 B. Leaves the retail store through a designated emergency exit after obtaining or
35 exercising unauthorized control over the property or otherwise uses a designated
36 emergency exit in connection with obtaining or exercising unauthorized control over
37 the property;

- 1 C. Removes, disables, destroys or otherwise prevents the operation of an
- 2 antishoplifting or inventory control device in connection with obtaining or exercising
- 3 unauthorized control over the property;
- 4 D. Alters a product code or affixes a false product code to merchandise in connection
- 5 with obtaining or exercising unauthorized control over the property;
- 6 E. Alters a sales receipt or makes a false sales receipt in connection with obtaining or
- 7 exercising unauthorized control over the property; or
- 8 F. Intends to sell the property.

9 **SUMMARY**

10 This bill creates a new crime of organized retail theft. Organized retail theft includes
11 the elements of theft as described in the Maine Revised Statutes, Title 17-A, section 354,
12 but the bill adds the element of using an organized retail scheme. For purposes of this
13 new crime, an organized retail scheme is used when the property over which the person
14 obtains or exercises unauthorized control is merchandise offered for sale by a retail store
15 and the person acts in concert with a store employee or other person; leaves the store with
16 the property through an emergency exit; removes or disables an antishoplifting or
17 inventory control device; alters a product code; alters a sales receipt; or intends to sell the
18 property.