

By Representative Tullis

1 A bill to be entitled
2 An act relating to the sale of merchandise and
3 crimes related thereto; amending s. 337.406,
4 F.S.; prohibiting the sale or distribution of
5 merchandise or services from the highway
6 right-of-way unless a valid peddler's license
7 is posted; prohibiting the sale or distribution
8 of merchandise or services from property
9 abutting the highway right-of-way unless the
10 property owner's written permission is posted;
11 providing penalties; amending s. 539.001, F.S.,
12 relating to the Florida Pawnbroking Act;
13 requiring a pawnbroker to post certain notices;
14 revising procedures governing claims for
15 misappropriated goods held by a pawnbroker;
16 providing definitions with respect to
17 provisions governing flea markets and flea
18 market vendors; requiring flea market vendors
19 to retain invoices or receipts for any new and
20 unused merchandise purchased or obtained for
21 resale; providing requirements with respect to
22 invoices or receipts; providing a time period
23 for maintaining such records; authorizing law
24 enforcement officers to request the production
25 of such records under certain circumstances;
26 providing a list of violations; providing
27 certain exceptions; requiring a flea market
28 vendor to display or have available his or her
29 license and dealer registration; providing for
30 an affirmative defense; providing penalties for
31 violations; amending s. 772.104, F.S.;

1 providing for a civil cause of action and
2 specified damages following a violation of s.
3 832.05, F.S., relating to giving worthless
4 checks, drafts, or debit card orders; amending
5 s. 812.014, F.S.; decreasing the value of
6 stolen property which constitutes the offense
7 of grand theft; amending s. 812.015, F.S.;
8 defining the term "merchant's employee" to
9 include private security guards; redefining the
10 term "retail theft" to include theft of
11 property and altering or removing a universal
12 product code; redefining the term
13 "antishoplifting or inventory control device"
14 to include film used for security purposes and
15 cash register receipts; authorizing a merchant
16 or merchant's employee to provide a business
17 address for purposes of any investigation with
18 respect to the offense of retail theft;
19 increasing the penalty for unlawfully
20 possessing antishoplifting or inventory control
21 device countermeasures; providing an enhanced
22 penalty for the offense of theft by a
23 merchant's employee of property belonging to
24 the merchant; specifying additional
25 circumstances under which theft of property
26 valued at a specified amount or more is grand
27 theft of the second degree; creating s.
28 812.0155, F.S.; requiring that the court order
29 a person's driver's license to be suspended
30 following an adjudication of guilt for retail
31 theft; providing for an increased period of

1 suspension for a second or subsequent
2 adjudication; creating s. 812.017, F.S.;
3 providing penalties for the use of a
4 fraudulently obtained or false receipt to
5 request a refund or obtain merchandise;
6 creating s. 812.0195, F.S.; providing penalties
7 for dealing in stolen property by use of the
8 Internet; amending s. 812.035, F.S.; requiring
9 that the court consider an offender's complete
10 prior record in sentencing the offender for a
11 violation of ss. 812.012-812.037, F.S.,
12 relating to theft and dealing in stolen
13 property; amending ss. 831.07, 831.08, 831.09,
14 F.S.; prohibiting forging a check or draft or
15 possessing or passing a forged check or draft;
16 providing penalties; reenacting s. 831.10,
17 F.S., relating to a second conviction of
18 uttering forged bills, to incorporate the
19 amendment to s. 831.09, F.S., in references
20 thereto; amending s. 831.11, F.S.; prohibiting
21 bringing a forged or counterfeit check or draft
22 into the state; providing a penalty; amending
23 s. 831.12, F.S.; providing that connecting
24 together checks or drafts to produce an
25 additional check or draft constitutes the
26 offense of forgery; amending s. 832.05, F.S.,
27 relating to worthless checks, drafts, or debit
28 card orders; providing that prior passing of a
29 worthless check or draft is not notice to the
30 payee of insufficient funds to ensure payment
31 of a subsequent check or draft; providing

1 penalties for the offense of drawing a check,
2 draft, or other order on a nonexistent account
3 or closed account; providing enhanced penalties
4 for a third or subsequent violation; requiring
5 that the court consider an offender's complete
6 prior record in sentencing the offender for a
7 violation of ch. 832, F.S.; amending s. 877.26,
8 F.S., relating to the offense of observing or
9 videotaping customers in a dressing room;
10 providing that it is not a violation of s.
11 877.26, F.S., for a merchant or security
12 officer to conduct visual surveillance in a
13 manner consistent with routine security
14 activities; amending s. 943.051, F.S.;
15 requiring that a record of violations of ss.
16 812.012-812.037, F.S., or ch. 832, F.S., be
17 included in the central criminal justice
18 information repository; amending s. 921.0022,
19 F.S., relating to the offense severity ranking
20 chart of the Criminal Punishment Code;
21 conforming provisions to changes made by the
22 act; authorizing local law enforcement agencies
23 to establish a task force on retail crime;
24 requiring that a task force make
25 recommendations to the local law enforcement
26 agency, the state attorney, and chief judge of
27 the judicial circuit on uniformly handling
28 cases involving retail crime and theft;
29 providing for severability; providing an
30 effective date.
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1 WHEREAS, it is the policy of this state to ensure fair
2 competition in the retail market and, in order to achieve that
3 goal, to take necessary steps to prevent the trafficking and
4 distribution of stolen merchandise, NOW, THEREFORE,

5

6 Be It Enacted by the Legislature of the State of Florida:

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8 Section 1. Section 337.406, Florida Statutes, is
9 amended to read:

10 337.406 Unlawful use of state transportation facility
11 right-of-way or property abutting the right-of-way;
12 penalties.--

13 (1) Except when leased as provided in s. 337.25(5) or
14 otherwise authorized by the rules of the department, it is
15 unlawful to make any use of the right-of-way of any state
16 transportation facility, including appendages thereto, outside
17 of an incorporated municipality in any manner that interferes
18 with the safe and efficient movement of people and property
19 from place to place on the transportation facility. Failure
20 to prohibit the use of right-of-way in this manner will
21 endanger the health, safety, and general welfare of the public
22 by causing distractions to motorists, unsafe pedestrian
23 movement within travel lanes, sudden stoppage or slowdown of
24 traffic, rapid lane changing and other dangerous traffic
25 movement, increased vehicular accidents, and motorist injuries
26 and fatalities. Such prohibited uses include, but are not
27 limited to, the free distribution or sale, or display or
28 solicitation for free distribution or sale, of any
29 merchandise, goods, property, or services; the solicitation
30 for charitable purposes; the servicing or repairing of any
31 vehicle, except the rendering of emergency service; the

1 storage of vehicles being serviced or repaired on abutting
2 property or elsewhere; and the display of advertising of any
3 sort, except that any portion of a state transportation
4 facility may be used for an art festival, parade, fair, or
5 other special event if permitted by the appropriate local
6 governmental entity. Within incorporated municipalities, the
7 local governmental entity may issue permits of limited
8 duration for the temporary use of the right-of-way of a state
9 transportation facility for any of these prohibited uses if it
10 is determined that the use will not interfere with the safe
11 and efficient movement of traffic and the use will cause no
12 danger to the public. Before a road on the State Highway
13 System may be temporarily closed for a special event, the
14 local governmental entity which permits the special event to
15 take place must determine that the temporary closure of the
16 road is necessary and must obtain the prior written approval
17 for the temporary road closure from the department. ~~Nothing in~~
18 This subsection does not ~~shall be construed~~ to authorize such
19 activities on the Interstate Highway System. Local
20 governmental entities may, within their respective
21 jurisdictions, initiate enforcement action by the appropriate
22 code enforcement authority or law enforcement authority for a
23 violation of this section.

24 (2)(a) Persons holding valid peddlers' licenses issued
25 by appropriate governmental entities may make sales from
26 vehicles standing on the right-of-way to occupants of abutting
27 property only.

28 (b) A person may not sell or distribute merchandise,
29 goods, property, or services while parked or standing on:
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1 1. The right-of-way unless the person posts a valid
2 peddler's license issued by the appropriate governmental
3 entity in a conspicuous location.

4 2. Property abutting the right-of-way unless the
5 person posts written permission from the property owner in a
6 conspicuous location.

7 (3) The Department of Highway Safety and Motor
8 Vehicles and other law enforcement agencies shall are
9 ~~authorized and directed to enforce this section statute.~~

10 (4) Any person who violates ~~The violation of any~~
11 ~~provision of~~ this section or any rule adopted promulgated by
12 the department pursuant to this section commits constitutes a
13 misdemeanor of the second degree, punishable as provided in s.
14 775.082 or s. 775.083, and each day a violation continues to
15 exist constitutes a separate offense.

16 Section 2. Paragraph (c) of subsection (9) and
17 subsection (15) of section 539.001, Florida Statutes, are
18 amended to read:

19 539.001 The Florida Pawnbroking Act.--

20 (9) RECORDKEEPING; REPORTING; HOLD PERIOD.--

21 (c) All goods delivered to a pawnbroker in a pawn or
22 purchase transaction must be securely stored and maintained in
23 an unaltered condition within the jurisdiction of the
24 appropriate law enforcement official for a period of 30
25 calendar days after the transaction. Those goods delivered to
26 a pawnbroker in a purchase transaction may not be sold or
27 otherwise disposed of before the expiration of such period.
28 The pawnbroker shall make all pledged and purchased goods and
29 all records relating to such goods available for inspection by
30 the appropriate law enforcement official during normal
31 business hours throughout such period. The pawnbroker must

1 store and maintain pledged goods for the period prescribed in
2 subsection (10) unless the pledged goods are redeemed earlier;
3 provided, however, that within the first 30 days after the
4 original pawn, the pledged goods may be redeemed only by the
5 pledgor or the pledgor's attorney in fact. The pawnbroker must
6 post a notice stating that pledged goods are held at that
7 business location and are available for inspection during
8 normal business hours.

9 (15) CLAIMS AGAINST PURCHASED GOODS OR PLEDGED GOODS
10 HELD BY PAWNBROKERS.--

11 (a) To obtain possession of purchased or pledged goods
12 held by a pawnbroker which a claimant claims to be
13 misappropriated, the claimant must notify the pawnbroker by
14 certified mail, return receipt requested, or in person
15 evidenced by signed receipt, of the claimant's claim to the
16 purchased or pledged goods. The notice must contain a complete
17 and accurate description of the purchased or pledged goods and
18 must be accompanied by a legible copy of the applicable law
19 enforcement agency's report on the misappropriation of such
20 property. The claimant must provide a receipt, invoice, bill
21 of sale, or other proof of purchase that evidences proof of
22 purchase of the goods. Upon receipt of such proof, the
23 pawnbroker must immediately convey the misappropriated goods
24 to the claimant without cost. If the claimant does not have a
25 receipt and ~~if~~ the claimant and the pawnbroker do not resolve
26 the matter within 10 days after the pawnbroker's receipt of
27 the notice, the claimant may petition the court to order the
28 return of the property, naming the pawnbroker as a defendant,
29 and must serve the pawnbroker with a copy of the petition. The
30 pawnbroker shall hold the property described in the petition
31 until the right to possession is resolved by the parties or by

1 a court of competent jurisdiction. The court shall waive any
2 filing fee for the petition to recover the property, and the
3 sheriff shall waive the service fees. The pawnbroker must
4 petition the court for restitution from the conveying
5 customer, naming such customer as defendant and serving him or
6 her with a copy of the petition.

7 (b) If, after notice and a hearing, the court finds
8 that the property was misappropriated, the pawnbroker and
9 ~~orders the return of the property to the claimant:~~

10 1. ~~The claimant~~ may recover from the conveying
11 customer ~~pawnbroker~~ the cost of the action, including the
12 pawnbroker's claimant's reasonable attorney's fees, taxable
13 costs, and the full amount the conveying customer received
14 from the pawnbroker for the property, plus all applicable pawn
15 charges. ~~and~~

16 2. ~~If the conveying customer is convicted of theft, a~~
17 ~~violation of this section, or dealing in stolen property, the~~
18 ~~court shall order the conveying customer to repay the~~
19 ~~pawnbroker the full amount the conveying customer received~~
20 ~~from the pawnbroker for the property, plus all applicable pawn~~
21 ~~service charges. As used in this paragraph, the term~~
22 ~~"convicted of" includes a plea of nolo contendere to the~~
23 ~~charges or any agreement in which adjudication is withheld;~~
24 ~~and~~

25 3. ~~The conveying customer shall be responsible to pay~~
26 ~~all attorney's fees and taxable costs incurred by the~~
27 ~~pawnbroker in defending a replevin action or any other civil~~
28 ~~matter wherein it is found that the conveying customer was in~~
29 ~~violation of this paragraph.~~

30 (c) ~~If the court finds that the claimant failed to~~
31 ~~comply with the requirements in paragraph (a) or otherwise~~

1 ~~finds against the claimant, the claimant is liable for the~~
2 ~~defendants' costs, including reasonable attorney's fees.~~

3 (c)~~(d)~~ The sale, pledge, or delivery of tangible
4 personal property to a pawnbroker by any person in this state
5 is considered to be:

6 1. An agreement by the person who sells, pledges, or
7 delivers the tangible personal property that the person is
8 subject to the jurisdiction of the court in all civil actions
9 and proceedings arising out of the pledge or sale transaction
10 filed by either a resident or nonresident plaintiff;

11 2. An appointment of the Secretary of State by any
12 nonresident of this state as that person's lawful attorney and
13 agent upon whom may be served all process in suits pertaining
14 to the actions and proceedings arising out of the sale,
15 pledge, or delivery; and

16 3. An agreement by any nonresident that any process in
17 any suit so served has the same legal force and validity as if
18 personally served in this state.

19 Section 3. Flea market vendors; definitions; invoices
20 or receipts; requirements; violations; penalties; exceptions;
21 hold orders.--

22 (1) As used in this section, the term:

23 (a)1. "Flea market" means any event at which two or
24 more persons offer personal property for sale or exchange and:

25 a. A fee is charged for the privilege of offering or
26 displaying property for sale or exchange; or

27 b. A fee is charged to prospective buyers for
28 admission to the area where property is offered or displayed
29 for sale or exchange.

30 2. The term "flea market" is interchangeable with and
31 applicable to the term "swap meet," the term "indoor swap

1 meet," or any other similar term regardless of whether these
2 events are held inside a building or outside in the open.

3 3. The term "flea market" does not mean and does not
4 apply to any event at which all of the personal property
5 offered for sale or displayed is new and all persons selling,
6 exchanging, offering, or displaying personal property for sale
7 or exchange are manufacturers or distributors or authorized
8 representatives of manufacturers or distributors.

9 (b)1. "Flea market vendor" means any person who
10 transports an inventory of goods to a flea market and who, at
11 that location, displays, sells, or offers the goods for sale
12 at retail.

13 2. The term "flea market vendor" does not include any
14 person who is a merchant with an established retail store if
15 the merchant is selling his or her own inventory; nor does the
16 term include any person selling merchandise at an event
17 sponsored by a not-for-profit charitable, religious,
18 educational, or scientific organization.

19 (c) "New and unused merchandise" means tangible
20 personal property acquired by the flea market vendor which has
21 never been used since its production or manufacture or which
22 is in its original and unopened package or container.

23 (2)(a) Every flea market vendor shall retain an
24 invoice or receipt for any new and unused merchandise
25 purchased or obtained for resale. The invoice or receipt must
26 have been issued by the person who sold such merchandise to
27 the flea market vendor; must specifically identify such
28 merchandise by merchandise name, quantity purchased, date
29 sold, and price; and must contain the complete business name,
30 business address, and description of the type of business
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- 1 operated by the person who sold the new and unused merchandise
2 to the flea market vendor.
- 3 (b) A flea market vendor shall keep invoices or
4 receipts required under this section available for inspection
5 and shall retain such records for 1 year after the date the
6 merchandise is sold.
- 7 (3)(a) If a law enforcement officer reasonably
8 believes that merchandise sold or offered for sale by a flea
9 market vendor may have been stolen, the law enforcement
10 officer may request the flea market vendor to produce the
11 invoice or receipt required under this section.
- 12 (b) In lieu of an invoice or receipt that shows the
13 source of merchandise, a flea market vendor may provide a
14 sworn affidavit that contains the information required in an
15 invoice or receipt under this section.
- 16 (4) This section does not apply to:
- 17 (a) The sale of a motor vehicle, boat, or trailer that
18 is required to be registered or that is subject to the
19 certificate-of-title laws of this state.
- 20 (b) The sale of ice or of wood for fuel.
- 21 (c) Business conducted in an industry or association
22 trade show.
- 23 (d) Property, although never used, whose style,
24 packaging, or material clearly indicates that such property
25 was not produced or manufactured within recent times.
- 26 (e) Anyone who sells by sample, catalog, or brochure
27 for future delivery.
- 28 (f) Arts or crafts made by a seller or a person in his
29 or her own household.
- 30 (g) Any farm, dairy, seafood, or nursery product.
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1 (5)(a) It is a violation of this section for a flea
2 market vendor to knowingly:
3 1. Falsify, obliterate, misrepresent, or destroy the
4 records required by this section;
5 2. Fail to maintain the records required by this
6 section.
7 (b) It is an affirmative defense to a charge of
8 failing to maintain or provide records as required by this
9 section if the offender provides to the state and to the court
10 a valid receipt or invoice for the merchandise in question.
11 (6)(a) The sale or offer for sale of any new and
12 unused merchandise by a flea market vendor is prima facie
13 evidence that the vendor is operating a trade or business and
14 must be licensed according to local, state, and federal laws
15 and registered as a dealer for purposes of the state sales and
16 use tax.
17 (b) Any flea market vendor must prominently display
18 such license and dealer registration at the location where the
19 merchandise is displayed or held for sale. If displaying the
20 license and registration is impractical based on the temporary
21 nature of the facilities or due to the lack of a permanent
22 structure, the vendor's license and registration must be
23 available on site and available for inspection by the public,
24 local law enforcement officers, private security personnel,
25 and state and local regulatory officials.
26 (7) Any flea market vendor who fails to display his or
27 her license and dealer registration or have his or her license
28 and dealer registration available for inspection may not
29 engage in selling or offering for sale new and unused
30 merchandise.
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1 (a) A vendor is subject to a civil penalty of \$250 for
2 the first violation of this subsection. This penalty may be
3 waived if the vendor demonstrates a lack of knowledge of the
4 requirements of this subsection. A vendor may not claim a lack
5 of knowledge of the requirements of this subsection if the
6 landlord of the premises or the landlord's agent has provided
7 appropriate information concerning the requirement that a
8 vendor obtain a license and dealer registration.

9 (b) A vendor is subject to a civil penalty of \$1,000
10 for the second violation of this subsection and a civil
11 penalty of \$5,000 for the third violation of this subsection.
12 A fourth or subsequent violation of this subsection is a
13 felony of the third degree, punishable as provided in s.
14 775.082, s. 775.083, or s. 775.084, Florida Statutes.

15 Section 4. Section 772.104, Florida Statutes, is
16 amended to read:

17 772.104 Civil cause of action.--Any person who proves
18 by clear and convincing evidence that he or she has been
19 injured by reason of any violation of the provisions of s.
20 772.103 shall have a cause of action for threefold the actual
21 damages sustained and, in any such action, is entitled to
22 minimum damages in the amount of \$200, and reasonable
23 attorney's fees and court costs in the trial and appellate
24 courts. In the case of a violation of s. 832.05, the claimant
25 has a cause of action for threefold the value of the worthless
26 check, draft, debit card order, or other written order, but
27 not less than minimum damages of \$200, and reasonable
28 attorney's fees and court costs in the trial and appellate
29 courts.In no event shall punitive damages be awarded under
30 this section. The defendant shall be entitled to recover
31 reasonable attorney's fees and court costs in the trial and

1 appellate courts upon a finding that the claimant raised a
2 claim which was without substantial fact or legal support. In
3 awarding attorney's fees and costs under this section, the
4 court shall not consider the ability of the opposing party to
5 pay such fees and costs. Nothing under this section shall be
6 interpreted as limiting any right to recover attorney's fees
7 or costs provided under other provisions of law.

8 Section 5. Subsections (1) and (2) of section 812.014,
9 Florida Statutes, are amended to read:

10 812.014 Theft.--

11 (1) A person commits theft if he or she knowingly
12 obtains or uses, or endeavors to obtain or to use, the
13 property of another with intent to, either temporarily or
14 permanently:

15 (a) Deprive the other person of a right to the
16 property or a benefit from the property.

17 (b) Appropriate the property to his or her own use or
18 to the use of any person not entitled to the use of the
19 property.

20 (2)(a)1. If the property stolen is valued at \$100,000
21 or more; or

22 2. If the offender commits any grand theft and:

23 a. In the course of committing the offense the
24 offender uses a motor vehicle as an instrumentality, other
25 than merely as a getaway vehicle, to assist in committing the
26 offense and thereby damages the real property of another; or

27 b. In the course of committing the offense the
28 offender causes damage to the real or personal property of
29 another in excess of \$1,000,

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1 the offender commits grand theft in the first degree,
2 punishable as a felony of the first degree, as provided in s.
3 775.082, s. 775.083, or s. 775.084.

4 (b) If the property stolen is valued at \$20,000 or
5 more, but less than \$100,000, the offender commits grand theft
6 in the second degree, punishable as a felony of the second
7 degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

8 (c) It is grand theft of the third degree and a felony
9 of the third degree, punishable as provided in s. 775.082, s.
10 775.083, or s. 775.084, if the property stolen is:

- 11 1. Valued at \$150~~\$300~~ or more, but less than \$5,000.
- 12 2. Valued at \$5,000 or more, but less than \$10,000.
- 13 3. Valued at \$10,000 or more, but less than \$20,000.
- 14 4. A will, codicil, or other testamentary instrument.
- 15 5. A firearm.
- 16 6. A motor vehicle, except as provided in paragraph
17 (2)(a).
- 18 7. Any commercially farmed animal, including any
19 animal of the equine, bovine, or swine class, or other grazing
20 animal, and including aquaculture species raised at a
21 certified aquaculture facility. If the property stolen is
22 aquaculture species raised at a certified aquaculture
23 facility, then a \$10,000 fine shall be imposed.
- 24 8. Any fire extinguisher.
- 25 9. Any amount of citrus fruit consisting of 2,000 or
26 more individual pieces of fruit.
- 27 10. Taken from a designated construction site
28 identified by the posting of a sign as provided for in s.
29 810.09(2)(d).
- 30 11. Any stop sign.
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1 (d) It is grand theft of the third degree and a felony
2 of the third degree, punishable as provided in s. 775.082, s.
3 775.083, or s. 775.084, if the property stolen is valued at
4 \$100 or more, but less than \$300, and is taken from a dwelling
5 as defined in s. 810.011(2) or from the unenclosed curtilage
6 of a dwelling pursuant to s. 810.09(1).

7 (e) Except as provided in paragraph (d), if the
8 property stolen is valued at ~~\$100 or more, but less than \$150~~
9 ~~\$300~~, the offender commits petit theft of the first degree,
10 punishable as a misdemeanor of the first degree, as provided
11 in s. 775.082 or s. 775.083.

12 Section 6. Section 812.015, Florida Statutes, is
13 amended to read:

14 812.015 Retail and farm theft; transit fare evasion;
15 mandatory fine; alternative punishment; detention and arrest;
16 exemption from liability for false arrest; resisting arrest;
17 penalties.--

18 (1) As used in this section:

19 (a) "Merchandise" means any personal property, capable
20 of manual delivery, displayed, held, or offered for retail
21 sale by a merchant.

22 (b) "Merchant" means an owner or operator, or the
23 agent, consignee, employee, lessee, or officer of an owner or
24 operator, of any premises or apparatus used for retail
25 purchase or sale of any merchandise. The term "merchant's
26 employee" includes a private security guard employed or
27 contracted by one or more merchants or by a shopping center,
28 shopping mall, or other business establishment.

29 (c) "Value of merchandise" means the sale price of the
30 merchandise at the time it was stolen or otherwise removed,
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1 depriving the owner of her or his lawful right to ownership
2 and sale of said item.

3 (d) "Retail theft" means the taking possession of or
4 carrying away of merchandise, property, money, or negotiable
5 documents; altering or removing a label, universal product
6 code, or price tag; transferring merchandise from one
7 container to another; or removing a shopping cart, with intent
8 to deprive the merchant of possession, use, benefit, or full
9 retail value.

10 (e) "Farm produce" means livestock or any item grown,
11 produced, or manufactured by a person owning, renting, or
12 leasing land for the purpose of growing, producing, or
13 manufacturing items for sale or personal use, either part time
14 or full time.

15 (f) "Farmer" means a person who is engaging in the
16 growing or producing of farm produce, milk products, eggs, or
17 meat, either part time or full time, for personal consumption
18 or for sale and who is the owner or lessee of the land or a
19 person designated in writing by the owner or lessee to act as
20 her or his agent. No person defined as a farm labor contractor
21 pursuant to s. 450.28 shall be designated to act as an agent
22 for purposes of this section.

23 (g) "Farm theft" means the unlawful taking possession
24 of any items that are grown or produced on land owned, rented,
25 or leased by another person.

26 (h) "Antishoplifting or inventory control device"
27 means a mechanism or other device designed and operated for
28 the purpose of detecting the removal from a mercantile
29 establishment or similar enclosure, or from a protected area
30 within such an enclosure, of specially marked or tagged
31 merchandise. The term includes any video recording or other

1 film used for security purposes and the cash register tape or
2 other record made of the register receipt.

3 (i) "Antishoplifting or inventory control device
4 countermeasure" means any item or device which is used,
5 designed, manufactured, modified, or altered to defeat any
6 antishoplifting or inventory control device.

7 (j) "Transit fare evasion" means the unlawful refusal
8 to pay the appropriate fare for transportation upon a mass
9 transit vehicle, or to evade the payment of such fare, or to
10 enter any mass transit vehicle or facility by any door,
11 passageway, or gate, except as provided for the entry of
12 fare-paying passengers, and shall constitute petit theft as
13 proscribed by this chapter.

14 (k) "Mass transit vehicle" means buses, rail cars, or
15 fixed-guideway mover systems operated by, or under contract
16 to, state agencies, political subdivisions of the state, or
17 municipalities for the transportation of fare-paying
18 passengers.

19 (l) "Transit agency" means any state agency, political
20 subdivision of the state, or municipality which operates mass
21 transit vehicles.

22 (m) "Trespass" means the violation as described in s.
23 810.08.

24 (2) Upon a second or subsequent conviction for petit
25 theft from a merchant, farmer, or transit agency, the offender
26 shall be punished as provided in s. 812.014(3), except that
27 the court shall impose a fine of not less than \$50 or more
28 than \$1,000. However, in lieu of such fine, the court may
29 require the offender to perform public services designated by
30 the court. In no event shall any such offender be required to
31 perform fewer than the number of hours of public service

1 necessary to satisfy the fine assessed by the court, as
2 provided by this subsection, at the minimum wage prevailing in
3 the state at the time of sentencing.

4 (3)(a) A law enforcement officer, a merchant, a
5 farmer, or a transit agency's employee or agent, who has
6 probable cause to believe that a retail theft, farm theft, a
7 transit fare evasion, or trespass, or unlawful use or
8 attempted use of any antishoplifting or inventory control
9 device countermeasure, has been committed by a person and, in
10 the case of retail or farm theft, that the property can be
11 recovered by taking the offender into custody may, for the
12 purpose of attempting to effect such recovery or for
13 prosecution, take the offender into custody and detain the
14 offender in a reasonable manner for a reasonable length of
15 time. In the case of a farmer, taking into custody shall be
16 effectuated only on property owned or leased by the farmer.
17 In the event the merchant, merchant's employee, farmer, or a
18 transit agency's employee or agent takes the person into
19 custody, a law enforcement officer shall be called to the
20 scene immediately after the person has been taken into
21 custody.

22 (b) The activation of an antishoplifting or inventory
23 control device as a result of a person exiting an
24 establishment or a protected area within an establishment
25 shall constitute reasonable cause for the detention of the
26 person so exiting by the owner or operator of the
27 establishment or by an agent or employee of the owner or
28 operator, provided sufficient notice has been posted to advise
29 the patrons that such a device is being utilized. Each such
30 detention shall be made only in a reasonable manner and only
31 for a reasonable period of time sufficient for any inquiry

1 into the circumstances surrounding the activation of the
2 device.

3 (c) The taking into custody and detention by a law
4 enforcement officer, merchant, merchant's employee, farmer, or
5 a transit agency's employee or agent, if done in compliance
6 with all the requirements of this subsection, shall not render
7 such law enforcement officer, merchant, merchant's employee,
8 farmer, or a transit agency's employee or agent, criminally or
9 civilly liable for false arrest, false imprisonment, or
10 unlawful detention.

11 (4) Any law enforcement officer may arrest, either on
12 or off the premises and without warrant, any person the
13 officer has probable cause to believe unlawfully possesses, or
14 is unlawfully using or attempting to use or has used or
15 attempted to use, any antishoplifting or inventory control
16 device countermeasure or has committed theft in a retail or
17 wholesale establishment or on commercial or private farm lands
18 of a farmer or transit fare evasion or trespass.

19 (5)(a) A merchant, merchant's employee, farmer, or a
20 transit agency's employee or agent who takes a person into
21 custody, as provided in subsection (3), or who causes an
22 arrest, as provided in subsection (4), of a person for retail
23 theft, farm theft, transit fare evasion, or trespass shall not
24 be criminally or civilly liable for false arrest or false
25 imprisonment when the merchant, merchant's employee, farmer,
26 or a transit agency's employee or agent has probable cause to
27 believe that the person committed retail theft, farm theft,
28 transit fare evasion, or trespass.

29 (b) If a merchant or merchant's employee takes a
30 person into custody as provided in this section, or acts as a
31 witness with respect to any person taken into custody as

1 provided in this section, the merchant or merchant's employee
2 may provide his or her business address rather than home
3 address to any investigating law enforcement officer.

4 (6) An individual who, while committing or after
5 committing theft of property, transit fare evasion, or
6 trespass, resists the reasonable effort of a law enforcement
7 officer, merchant, merchant's employee, farmer, or a transit
8 agency's employee or agent to recover the property or cause
9 the individual to pay the proper transit fare or vacate the
10 transit facility which the law enforcement officer, merchant,
11 merchant's employee, farmer, or a transit agency's employee or
12 agent had probable cause to believe the individual had
13 concealed or removed from its place of display or elsewhere or
14 perpetrated a transit fare evasion or trespass commits a
15 misdemeanor of the first degree, punishable as provided in s.
16 775.082 or s. 775.083, unless the individual did not know, or
17 did not have reason to know, that the person seeking to
18 recover the property was a law enforcement officer, merchant,
19 merchant's employee, farmer, or a transit agency's employee or
20 agent. For purposes of this section the charge of theft and
21 the charge of resisting may be tried concurrently.

22 (7) It is unlawful to possess, or use or attempt to
23 use, any antishoplifting or inventory control device
24 countermeasure within any premises used for the retail
25 purchase or sale of any merchandise. Any person who possesses
26 any antishoplifting or inventory control device countermeasure
27 within any premises used for the retail purchase or sale of
28 any merchandise commits a felony ~~misdemeanor~~ of the third
29 ~~first~~ degree, punishable as provided in s. 775.082, ~~or~~ s.
30 775.083, or s. 775.084. Any person who uses or attempts to
31 use any antishoplifting or inventory control device

1 countermeasure within any premises used for the retail
2 purchase or sale of any merchandise commits a felony of the
3 third degree, punishable as provided in s. 775.082, s.
4 775.083, or s. 775.084.

5 (8) Theft of any property belonging to a merchant by a
6 merchant's employee, or by an employee of a person, firm, or
7 entity that has contracted to provide services to the
8 merchant, is a felony of the third degree, punishable as
9 provided in s. 775.082, s. 775.083, or s. 775.084.

10 (9) If a person commits retail theft, it is grand
11 theft of the second degree and a felony of the second degree,
12 punishable as provided in s. 775.082, s. 775.083, or s.
13 775.084, if the property stolen is valued at \$150 or more,
14 and:

15 (a) One or more individuals coordinate the activities
16 of one or more other individuals in committing the offense, in
17 which case the amount of each individual theft is aggregated
18 to determine the value of the property stolen.

19 (b) One individual commits theft from more than one
20 location within a 48-hour period, in which case the amount of
21 each individual theft is aggregated to determine the value of
22 the property stolen.

23 (c) Two or more individuals act in concert within one
24 or more establishments to distract the merchant, merchant's
25 employee, or law enforcement officer in order to carry out the
26 offense, or act in other ways to coordinate efforts to carry
27 out the offense.

28 (d) The offender was in unlawful possession of a
29 controlled substance or drug paraphernalia at the time of the
30 offense.

31

1 (e) The offense is committed through the purchase of
2 merchandise in a package or box that contains merchandise
3 other than, or in addition to, the merchandise purported to be
4 contained in the package or box.

5 (f) The offender resists with violence efforts by the
6 merchant, merchant's employee, or law enforcement officer to
7 detain the offender. As used in this paragraph, the term
8 "violence" includes, but is not limited to, the use of a gun,
9 knife, or other weapon or the use of physical force.

10 Section 7. Section 812.0155, Florida Statutes, is
11 created to read:

12 812.0155 Suspension of driver's license following an
13 adjudication of guilt for retail theft.--The court shall order
14 the suspension of the driver's license of each person
15 adjudicated guilty of retail theft under s. 812.014 or s.
16 812.015, regardless of the value of the property stolen. The
17 court shall forward the driver's license of the person
18 adjudicated guilty to the Department of Highway Safety and
19 Motor Vehicles in accordance with s. 322.25.

20 (1) The first suspension of a driver's license under
21 this section shall be for a period of up to 6 months.

22 (2) A second or subsequent suspension of a driver's
23 license under this section shall be for 1 year.

24 Section 8. Section 812.017, Florida Statutes, is
25 created to read:

26 812.017 Use of a fraudulently obtained or false
27 receipt.--

28 (1) Any person who requests a refund of merchandise,
29 money, or any other thing of value through the use of a
30 fraudulently obtained receipt or false receipt commits a
31

1 misdemeanor of the second degree, punishable as provided in s.
2 775.082 or s. 775.083.

3 (2) Any person who obtains merchandise, money, or any
4 other thing of value through the use of a fraudulently
5 obtained receipt or false receipt commits a misdemeanor of the
6 first degree, punishable as provided in s. 775.082 or s.
7 775.083.

8 Section 9. Section 812.0195, Florida Statutes, is
9 created to read:

10 812.0195 Dealing in stolen property by use of the
11 Internet.--Any person in this state who uses the Internet to
12 sell or offer for sale any merchandise or other property that
13 the person knows, or has reasonable cause to believe, is
14 stolen commits:

15 (1) A misdemeanor of the second degree, punishable as
16 provided in s. 775.082 or s. 775.083, if the value of the
17 property is less than \$150.

18 (2) A felony of the third degree, punishable as
19 provided in s. 775.082, s. 775.083, or s. 775.084, if the
20 value of the property of \$150 or more.

21 Section 10. Subsection (12) is added to section
22 812.035, Florida Statutes, to read:

23 812.035 Civil remedies; limitation on civil and
24 criminal actions.--

25 (12) In any criminal or civil action or proceeding
26 under ss. 812.012-812.037 or s. 812.081, the court shall
27 consider the offender's complete prior record of any arrests
28 or convictions, including any pending case. If an offender has
29 been referred to a pretrial intervention program for any prior
30 offense, the offender may not be sentenced as a first-time
31 offender for a violation of ss. 812.012-812.037 or s. 812.081.

1 Section 11. Section 831.07, Florida Statutes, is
2 amended to read:
3 831.07 Forging bank bills, checks, drafts, or
4 promissory notes.--Whoever falsely makes, alters, forges or
5 counterfeits a bank bill, check, draft, or promissory note
6 payable to the bearer thereof, or to the order of any person,
7 issued by an incorporated banking company established in this
8 state, or within the United States, or any foreign province,
9 state, or government, with intent to injure any person,
10 commits ~~shall be guilty of~~ a felony of the third degree,
11 punishable as provided in s. 775.082, s. 775.083, or s.
12 775.084.

13 Section 12. Section 831.08, Florida Statutes, is
14 amended to read:
15 831.08 Possessing certain forged notes, or bills,
16 checks, or drafts.--Whoever has in his or her possession 10 or
17 more similar false, altered, forged, or counterfeit notes,
18 bills of credit, bank bills, checks, drafts, or notes, such as
19 are mentioned in any of the preceding sections of this
20 chapter, payable to the bearer thereof or to the order of any
21 person, knowing the same to be false, altered, forged, or
22 counterfeit, with intent to utter and pass the same as true,
23 and thereby to injure or defraud any person, commits ~~shall be~~
24 ~~guilty of~~ a felony of the third degree, punishable as provided
25 in s. 775.082, s. 775.083, or s. 775.084.

26 Section 13. Section 831.09, Florida Statutes, is
27 amended to read:
28 831.09 Uttering forged bills, checks, drafts, or
29 notes.--Whoever utters or passes or tenders in payment as
30 true, any such false, altered, forged, or counterfeit note, or
31 any bank bill, check, draft, or promissory note, payable to

1 the bearer thereof or to the order of any person, issued as
2 aforesaid, knowing the same to be false, altered, forged, or
3 counterfeit, with intent to injure or defraud any person,
4 commits ~~shall be guilty of~~ a felony of the third degree,
5 punishable as provided in s. 775.082, s. 775.083, or s.
6 775.084.

7 Section 14. For the purpose of incorporating the
8 amendments made by this act to section 831.09, Florida
9 Statutes, in references thereto, section 831.10, Florida
10 Statutes, is reenacted to read:

11 831.10 Second conviction of uttering forged
12 bills.--Whoever, having been convicted of the offense
13 mentioned in s. 831.09 is again convicted of the like offense
14 committed after the former conviction, and whoever is at the
15 same term of the court convicted upon three distinct charges
16 of such offense, shall be deemed a common utterer of
17 counterfeit bills, and shall be punished as provided in s.
18 775.084.

19 Section 15. Section 831.11, Florida Statutes, is
20 amended to read:

21 831.11 Bringing into the state forged bank bills,
22 checks, drafts, or notes.--Whoever brings into this state or
23 has in his or her possession a false, forged, or counterfeit
24 bill, check, draft, or note in the similitude of the bills or
25 notes payable to the bearer thereof or to the order of any
26 person issued by or for any bank or banking company
27 established in this state, or within the United States, or any
28 foreign province, state or government, with intent to utter
29 and pass the same or to render the same current as true,
30 knowing the same to be false, forged, or counterfeit, commits
31

1 ~~shall be guilty of~~ a felony of the third degree, punishable as
2 provided in s. 775.082, s. 775.083, or s. 775.084.

3 Section 16. Section 831.12, Florida Statutes, is
4 amended to read:

5 831.12 Fraudulently connecting parts of genuine
6 instrument.--Whoever fraudulently connects together parts of
7 several banknotes, checks, drafts, or other genuine
8 instruments in such a manner as to produce one additional
9 note, check, draft, or instrument, with intent to pass all of
10 them as genuine, commits ~~shall be deemed guilty of~~ forgery in
11 ~~like manner~~ as if each of them had been falsely made or
12 forged.

13 Section 17. Section 832.05, Florida Statutes, is
14 amended to read:

15 832.05 Giving worthless checks, drafts, and debit card
16 orders; penalty; duty of drawee; evidence; costs; complaint
17 form.--

18 (1) PURPOSE.--The purpose of this section is to remedy
19 the evil of giving checks, drafts, bills of exchange, debit
20 card orders, and other orders on banks without first providing
21 funds in or credit with the depositories on which the same are
22 made or drawn to pay and satisfy the same, which tends to
23 create the circulation of worthless checks, drafts, bills of
24 exchange, debit card orders, and other orders on banks, bad
25 banking, check kiting, and a mischief to trade and commerce.

26 (2) WORTHLESS CHECKS, DRAFTS, OR DEBIT CARD ORDERS;
27 PENALTY.--

28 (a) It is unlawful for any person, firm, or
29 corporation to draw, make, utter, issue, or deliver to another
30 any check, draft, or other written order on any bank or
31 depository, or to use a debit card, for the payment of money

1 or its equivalent, knowing at the time of the drawing, making,
2 uttering, issuing, or delivering such check or draft, or at
3 the time of using such debit card, that the maker or drawer
4 thereof has not sufficient funds on deposit in or credit with
5 such bank or depository with which to pay the same on
6 presentation; except that this section does not apply to any
7 check when the payee or holder knows or has been expressly
8 notified prior to the drawing or uttering of the check, or has
9 reason to believe, that the drawer did not have on deposit or
10 to the drawer's credit with the drawee sufficient funds to
11 ensure payment as aforesaid, nor does this section apply to
12 any postdated check. A payee or holder does not have
13 knowledge, express notification, or reason to believe that the
14 maker or drawer has insufficient funds to ensure payment of a
15 check, draft, or debit card order solely because the maker or
16 drawer has previously drawn or issued a worthless check,
17 draft, or debit card order to the payee or holder.

18 (b) A violation of the provisions of this subsection
19 constitutes a misdemeanor of the first degree, punishable as
20 provided in s. 775.082 or s. 775.083, unless the check, draft,
21 debit card order, or other written order drawn, made, uttered,
22 issued, or delivered is in the amount of \$150, or its
23 equivalent, or more and the payee or a subsequent holder
24 thereof receives something of value therefor. In that event,
25 the violation constitutes a felony of the third degree,
26 punishable as provided in s. 775.082, s. 775.083, or s.
27 775.084.

28 (3) CASHING OR DEPOSITING ITEM WITH INTENT TO DEFRAUD;
29 PENALTY.--

30 (a) It is unlawful for any person, by act or common
31 scheme, to cash or deposit any item, as defined in s.

1 674.104(1)(i), in any bank or depository with intent to
2 defraud.

3 (b) A violation of the provisions of this subsection
4 constitutes a felony of the third degree, punishable as
5 provided in s. 775.082, s. 775.083, or s. 775.084.

6 (4) OBTAINING PROPERTY OR SERVICES IN RETURN FOR
7 WORTHLESS CHECKS, DRAFTS, OR DEBIT CARD ORDERS; PENALTY.--

8 (a) It is unlawful for any person, firm, or
9 corporation to obtain any services, goods, wares, or other
10 things of value by means of a check, draft, or other written
11 order upon any bank, person, firm, or corporation, knowing at
12 the time of the making, drawing, uttering, issuing, or
13 delivering of such check or draft that the maker thereof has
14 not sufficient funds on deposit in or credit with such bank or
15 depository with which to pay the same upon presentation.
16 However, no crime may be charged in respect to the giving of
17 any such check or draft or other written order when the payee
18 knows, has been expressly notified, or has reason to believe
19 that the drawer did not have on deposit or to the drawer's
20 credit with the drawee sufficient funds to ensure payment
21 thereof. A payee does not have reason to believe a payor does
22 not have sufficient funds to ensure payment of a check solely
23 because the payor has previously issued a worthless check to
24 him or her.

25 (b) It is unlawful for any person to use a debit card
26 to obtain money, goods, services, or anything else of value
27 knowing at the time of such use that he or she does not have
28 sufficient funds on deposit with which to pay for the same or
29 that the value thereof exceeds the amount of credit which is
30 available to him or her through an overdraft financing

31

1 agreement or prearranged line of credit which is accessible by
2 the use of the card.

3 (c) A violation of the provisions of this subsection,
4 if the check, draft, other written order, or debit card order
5 is for an amount less than \$150 or its equivalent, constitutes
6 a misdemeanor of the first degree, punishable as provided in
7 s. 775.082 or s. 775.083. A violation of the provisions of
8 this subsection, if the check, draft, other written order, or
9 debit card order is in the amount of \$150, or its equivalent,
10 or more, constitutes a felony of the third degree, punishable
11 as provided in s. 775.082, s. 775.083, or s. 775.084.

12 (5) CHECKS, DRAFTS, OR DEBIT CARD ORDERS DRAWN ON A
13 BANK IN WHICH THE MAKER HAS NO ACCOUNT OR A CLOSED ACCOUNT.--

14 (a) A person, firm, or corporation may not draw, make,
15 utter, issue, or deliver to another any check, draft, or debit
16 card order for the payment of money or its equivalent, knowing
17 at the time of the drawing, making, uttering, issuing, or
18 delivering such check, draft, or debit card order that the
19 check, draft, or order is drawn on a bank or depository in
20 which the maker or drawer has no account or a closed account.

21 (b) Any person who violates this subsection commits:

22 1. A misdemeanor of the first degree, punishable as
23 provided in s. 775.082 or s. 775.083, if the amount of the
24 check, draft, or debit card order is for an amount less than
25 \$150.

26 2. A felony of the second degree, punishable as
27 provided in s. 775.082, s. 775.083, or s. 775.084, if the
28 amount of the check, draft, or debit card order is for an
29 amount of \$150 or more.

30 (6) ENHANCED PENALTIES FOR A THIRD OR SUBSEQUENT
31 VIOLATION.--Any person who violates subsection (2) or

1 subsection (4) for a third or subsequent time by drawing,
2 making, uttering, issuing, or delivering a check, draft, or
3 debit card order in the amount of \$150 or more commits a
4 felony of the second degree, punishable as provided in s.
5 775.082, s. 775.083, or s. 775.084.

6 (7)(5) PAYMENT NO DEFENSE.--Payment of a dishonored
7 check, draft, bill of exchange, or other order does not
8 constitute a defense or ground for dismissal of charges
9 brought under this section.

10 (8)(6) "CREDIT," "DEBIT CARD" DEFINED.--

11 (a) The word "credit" as used herein shall be
12 construed to mean an arrangement or understanding with the
13 drawee for the payment of such check, draft, or other written
14 order.

15 (b) As used in this section, the term "debit card"
16 means a card, code, or other device, other than a check,
17 draft, or similar paper instrument, by the use of which a
18 person may order, instruct, or authorize a financial
19 institution to debit a demand deposit, savings deposit, or
20 other asset account.

21 (9)(7) REASON FOR DISHONOR, DUTY OF DRAWEE.--It is the
22 duty of the drawee of any check, draft, or other written
23 order, before refusing to pay the same to the holder thereof
24 upon presentation, to cause to be written, printed, or stamped
25 in plain language thereon or attached thereto the reason for
26 the drawee's dishonor or refusal to pay it. In any
27 prosecution under this section, the introduction in evidence
28 of any unpaid and dishonored check, draft, or other written
29 order having the drawee's refusal to pay stamped or written
30 thereon or attached thereto, with the reason therefor as
31 aforesaid, is prima facie evidence of the making or uttering

1 of such check, draft, or other written order, of the due
2 presentation to the drawee for payment and the dishonor
3 thereof, and that the same was properly dishonored for the
4 reasons written, stamped, or attached by the drawee on such
5 dishonored check, draft, or other written order. As against
6 the maker or drawer thereof, the withdrawing from deposit with
7 the drawee named in the check, draft, or other written order
8 of the funds on deposit with such drawee necessary to ensure
9 payment of such check, draft, or other written order upon
10 presentation within a reasonable time after negotiation or the
11 drawing, making, uttering, or delivering of a check, draft, or
12 written order, payment of which is refused by the drawee, is
13 prima facie evidence of knowledge of insufficient funds in or
14 credit with such drawee. However, if it is determined at the
15 trial in a prosecution hereunder that the payee of any such
16 check, draft, or written order, at the time of accepting such
17 check, draft, or written order, had knowledge of or reason to
18 believe that the drawer of such check, draft, or other written
19 order did not have sufficient funds on deposit in or credit
20 with such drawee, then the payee instituting such criminal
21 prosecution shall be assessed all costs of court incurred in
22 connection with such prosecution. A payee accepting a check,
23 draft, or written order does not have knowledge, express
24 notification, or reason to believe that the maker or drawer
25 has insufficient funds to ensure payment of the check, draft,
26 or other written order solely because the maker or drawer has
27 previously drawn or issued a worthless check, draft, or
28 written order to the payee.

29 (10)~~(8)~~ COSTS.--When a prosecution is initiated under
30 this section before any committing magistrate, the party
31 applying for the warrant shall be held liable for costs

1 accruing in the event the case is dismissed for want of
2 prosecution. No costs shall be charged to the county in such
3 dismissed cases.

4 (11)~~(9)~~ STATE ATTORNEYS; WORTHLESS CHECKS; FORM OF
5 COMPLAINT.--The state attorneys of Florida shall collectively
6 promulgate a single form to be used in all judicial circuits
7 by persons reporting a violation of this chapter.

8 (12) SENTENCING.--In sentencing an offender for a
9 violation of this chapter, the court shall consider the
10 offender's complete prior record of any arrests or
11 convictions, including any pending cases. If an offender has
12 been referred to a pretrial intervention program for any prior
13 offense, the offender may not be sentenced as a first-time
14 offender for a violation of this chapter.

15 Section 18. Section 877.26, Florida Statutes, is
16 amended to read:

17 877.26 Direct observation, videotaping, or visual
18 surveillance of customers in merchant's dressing room, etc.,
19 prohibited; penalties.--

20 (1) It is unlawful for any merchant to directly
21 observe or make use of video cameras or other visual
22 surveillance devices to observe or record customers in the
23 merchant's dressing room, fitting room, changing room, or
24 restroom when such room provides a reasonable expectation of
25 privacy. As used in this subsection, the term "merchant" means
26 an owner or operator, or the agent, consignee, employee,
27 lessee, or officer of an owner or operator, of any premises or
28 apparatus used for retail purchase or sale of any merchandise.

29 (2) It is not a violation of subsection (1) for a
30 merchant or security officer to conduct personal visual
31 surveillance of a fitting room or restroom in a manner that is

1 consistent with routine security activities necessary to
2 prevent theft or the unlawful taking of merchandise.

3 ~~(3)(2)~~ Any merchant who violates subsection (1) is
4 guilty of a misdemeanor of the first degree, punishable as
5 provided in s. 775.082 or s. 775.083.

6 Section 19. Subsection (2) of section 943.051, Florida
7 Statutes, is amended to read:

8 943.051 Criminal justice information; collection and
9 storage; fingerprinting.--

10 (2) Each adult person charged with or convicted of a
11 felony, misdemeanor, or violation of a comparable ordinance by
12 a state, county, municipal, or other law enforcement agency
13 shall be fingerprinted, and such fingerprints shall be
14 submitted to the department in the manner prescribed by rule.
15 Exceptions to this requirement for specified misdemeanors or
16 comparable ordinance violations may be made by the department
17 by rule. However, a record of any violation of ss.

18 812.012-812.037 or chapter 832, including any misdemeanor
19 violation, shall be included in the central criminal justice
20 information repository.

21 Section 20. Paragraphs (b), (c), and (f) of subsection
22 (3) of section 921.0022, Florida Statutes, are amended to
23 read:

24 921.0022 Criminal Punishment Code; offense severity
25 ranking chart.--

26 (3) OFFENSE SEVERITY RANKING CHART

27
28 Florida Felony
29 Statute Degree Description
30
31

1			(b) LEVEL 2
2	403.413(5)(c)	3rd	Dumps waste litter exceeding 500
3			lbs. in weight or 100 cubic feet
4			in volume or any quantity for
5			commercial purposes, or hazardous
6			waste.
7	517.07	3rd	Registration of securities and
8			furnishing of prospectus
9			required.
10	590.28(1)	3rd	Willful, malicious, or
11			intentional burning.
12	784.05(3)	3rd	Storing or leaving a loaded
13			firearm within reach of minor who
14			uses it to inflict injury or
15			death.
16	787.04(1)	3rd	In violation of court order,
17			take, entice, etc., minor beyond
18			state limits.
19	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000
20			or more to public communication
21			or any other public service.
22	810.09(2)(e)	3rd	Trespassing on posted commercial
23			horticulture property.
24	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; <u>\$150</u>
25			\$300 or more but less than
26			\$5,000.
27	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or
28			more but less than \$300, taken
29			from unenclosed curtilage of
30			dwelling.
31			

1	817.234(1)(a)2.	3rd	False statement in support of
2			insurance claim.
3	817.481(3)(a)	3rd	Obtain credit or purchase with
4			false, expired, counterfeit,
5			etc., credit card, value over
6			\$300.
7	817.52(3)	3rd	Failure to redeliver hired
8			vehicle.
9	817.54	3rd	With intent to defraud, obtain
10			mortgage note, etc., by false
11			representation.
12	817.60(5)	3rd	Dealing in credit cards of
13			another.
14	817.60(6)(a)	3rd	Forgery; purchase goods, services
15			with false card.
16	817.61	3rd	Fraudulent use of credit cards
17			over \$100 or more within 6
18			months.
19	826.04	3rd	Knowingly marries or has sexual
20			intercourse with person to whom
21			related.
22	831.01	3rd	Forgery.
23	831.02	3rd	Uttering forged instrument;
24			utters or publishes alteration
25			with intent to defraud.
26	831.07	3rd	Forging bank bills or promissory
27			note.
28	831.08	3rd	Possession of 10 or more forged
29			notes.
30	831.09	3rd	Uttering forged bills; passes as
31			bank bill or promissory note.

1	832.05(3)(a)	3rd	Cashing or depositing item with
2			intent to defraud.
3	843.08	3rd	Falsely impersonating an officer.
4	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c),
5			(2)(c), (3), or (4) drugs other
6			than cannabis.
7	893.147(2)	3rd	Manufacture or delivery of drug
8			paraphernalia.
9			(c) LEVEL 3
10	316.1935(2)	3rd	Fleeing or attempting to elude
11			law enforcement officer in marked
12			patrol vehicle with siren and
13			lights activated.
14	319.30(4)	3rd	Possession by junkyard of motor
15			vehicle with identification
16			number plate removed.
17	319.33(1)(a)	3rd	Alter or forge any certificate of
18			title to a motor vehicle or
19			mobile home.
20	319.33(1)(c)	3rd	Procure or pass title on stolen
21			vehicle.
22	319.33(4)	3rd	With intent to defraud, possess,
23			sell, etc., a blank, forged, or
24			unlawfully obtained title or
25			registration.
26	328.05(2)	3rd	Possess, sell, or counterfeit
27			fictitious, stolen, or fraudulent
28			titles or bills of sale of
29			vessels.
30			
31			

1	328.07(4)	3rd	Manufacture, exchange, or possess
2			vessel with counterfeit or wrong
3			ID number.
4	376.302(5)	3rd	Fraud related to reimbursement
5			for cleanup expenses under the
6			Inland Protection Trust Fund.
7	501.001(2)(b)	2nd	Tampers with a consumer product
8			or the container using materially
9			false/misleading information.
10	697.08	3rd	Equity skimming.
11	790.15(3)	3rd	Person directs another to
12			discharge firearm from a vehicle.
13	796.05(1)	3rd	Live on earnings of a prostitute.
14	806.10(1)	3rd	Maliciously injure, destroy, or
15			interfere with vehicles or
16			equipment used in firefighting.
17	806.10(2)	3rd	Interferes with or assaults
18			firefighter in performance of
19			duty.
20	810.09(2)(c)	3rd	Trespass on property other than
21			structure or conveyance armed
22			with firearm or dangerous weapon.
23	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
24			less than \$10,000.
25	815.04(4)(b)	2nd	Computer offense devised to
26			defraud or obtain property.
27	817.034(4)(a)3.	3rd	Engages in scheme to defraud
28			(Florida Communications Fraud
29			Act), property valued at less
30			than \$20,000.
31	817.233	3rd	Burning to defraud insurer.

1	828.12(2)	3rd	Tortures any animal with intent
2			to inflict intense pain, serious
3			physical injury, or death.
4	831.29	2nd	Possession of instruments for
5			counterfeiting drivers' licenses
6			or identification cards.
7	<u>832.05(5)</u>	<u>2nd</u>	<u>Giving a check, draft, or debit</u>
8			<u>card order in the amount of \$150</u>
9			<u>or more, drawn on a nonexistent</u>
10			<u>account.</u>
11	838.021(3)(b)	3rd	Threatens unlawful harm to public
12			servant.
13	843.19	3rd	Injure, disable, or kill police
14			dog or horse.
15	870.01(2)	3rd	Riot; inciting or encouraging.
16	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
17			cannabis (or other s.
18			893.03(1)(c), (2)(c), (3), or (4)
19			drugs).
20	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
21			893.03(1)(c), (2)(c), (3), or (4)
22			drugs within 200 feet of
23			university or public park.
24	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
25			893.03(1)(c), (2)(c), (3), or (4)
26			drugs within 200 feet of public
27			housing facility.
28	893.13(6)(a)	3rd	Possession of any controlled
29			substance other than felony
30			possession of cannabis.
31			

1	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
2			controlled substance by fraud,
3			forgery, misrepresentation, etc.
4	893.13(7)(a)11.	3rd	Furnish false or fraudulent
5			material information on any
6			document or record required by
7			chapter 893.
8	918.13(1)(a)	3rd	Alter, destroy, or conceal
9			investigation evidence.
10	944.47		
11	(1)(a)1.-2.	3rd	Introduce contraband to
12			correctional facility.
13	944.47(1)(c)	2nd	Possess contraband while upon the
14			grounds of a correctional
15			institution.
16	985.3141	3rd	Escapes from a juvenile facility
17			(secure detention or residential
18			commitment facility).
19			(f) LEVEL 6
20	316.027(1)(b)	2nd	Accident involving death, failure
21			to stop; leaving scene.
22	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
23			conviction.
24	775.0875(1)	3rd	Taking firearm from law
25			enforcement officer.
26	775.21(10)	3rd	Sexual predators; failure to
27			register; failure to renew
28			driver's license or
29			identification card.
30	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
31			without intent to kill.

1	784.021(1)(b)	3rd	Aggravated assault; intent to
2			commit felony.
3	784.041	3rd	Felony battery.
4	784.048(3)	3rd	Aggravated stalking; credible
5			threat.
6	784.048(5)	3rd	Aggravated stalking of person
7			under 16.
8	784.07(2)(c)	2nd	Aggravated assault on law
9			enforcement officer.
10	784.08(2)(b)	2nd	Aggravated assault on a person 65
11			years of age or older.
12	784.081(2)	2nd	Aggravated assault on specified
13			official or employee.
14	784.082(2)	2nd	Aggravated assault by detained
15			person on visitor or other
16			detainee.
17	784.083(2)	2nd	Aggravated assault on code
18			inspector.
19	787.02(2)	3rd	False imprisonment; restraining
20			with purpose other than those in
21			s. 787.01.
22	790.115(2)(d)	2nd	Discharging firearm or weapon on
23			school property.
24	790.161(2)	2nd	Make, possess, or throw
25			destructive device with intent to
26			do bodily harm or damage
27			property.
28	790.164(1)	2nd	False report of deadly explosive
29			or act of arson or violence to
30			state property.
31			

1	790.19	2nd	Shooting or throwing deadly
2			missiles into dwellings, vessels,
3			or vehicles.
4	794.011(8)(a)	3rd	Solicitation of minor to
5			participate in sexual activity by
6			custodial adult.
7	794.05(1)	2nd	Unlawful sexual activity with
8			specified minor.
9	800.04(5)(d)	3rd	Lewd or lascivious molestation;
10			victim 12 years of age or older
11			but less than 16 years; offender
12			less than 18 years.
13	800.04(6)(b)	2nd	Lewd or lascivious conduct;
14			offender 18 years of age or
15			older.
16	806.031(2)	2nd	Arson resulting in great bodily
17			harm to firefighter or any other
18			person.
19	810.02(3)(c)	2nd	Burglary of occupied structure;
20			unarmed; no assault or battery.
21	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
22			but less than \$100,000, grand
23			theft in 2nd degree.
24	<u>812.015(9)</u>	<u>2nd</u>	<u>Property stolen \$150 or more, but</u>
25			<u>theft is committed in concert</u>
26			<u>with others or under other</u>
27			<u>extenuating circumstances.</u>
28	812.13(2)(c)	2nd	Robbery, no firearm or other
29			weapon (strong-arm robbery).
30	817.034(4)(a)1.	1st	Communications fraud, value
31			greater than \$50,000.

1	817.4821(5)	2nd	Possess cloning paraphernalia
2			with intent to create cloned
3			cellular telephones.
4	825.102(1)	3rd	Abuse of an elderly person or
5			disabled adult.
6	825.102(3)(c)	3rd	Neglect of an elderly person or
7			disabled adult.
8	825.1025(3)	3rd	Lewd or lascivious molestation of
9			an elderly person or disabled
10			adult.
11	825.103(2)(c)	3rd	Exploiting an elderly person or
12			disabled adult and property is
13			valued at less than \$20,000.
14	827.03(1)	3rd	Abuse of a child.
15	827.03(3)(c)	3rd	Neglect of a child.
16	827.071(2)&(3)	2nd	Use or induce a child in a sexual
17			performance, or promote or direct
18			such performance.
19	836.05	2nd	Threats; extortion.
20	836.10	2nd	Written threats to kill or do
21			bodily injury.
22	843.12	3rd	Aids or assists person to escape.
23	847.0135(3)	3rd	Solicitation of a child, via a
24			computer service, to commit an
25			unlawful sex act.
26	914.23	2nd	Retaliation against a witness,
27			victim, or informant, with bodily
28			injury.
29	943.0435(9)	3rd	Sex offenders; failure to comply
30			with reporting requirements.
31			

1	944.35(3)(a)2.	3rd	Committing malicious battery upon
2			or inflicting cruel or inhuman
3			treatment on an inmate or
4			offender on community
5			supervision, resulting in great
6			bodily harm.
7	944.40	2nd	Escapes.
8	944.46	3rd	Harboring, concealing, aiding
9			escaped prisoners.
10	944.47(1)(a)5.	2nd	Introduction of contraband
11			(firearm, weapon, or explosive)
12			into correctional facility.
13	951.22(1)	3rd	Intoxicating drug, firearm, or
14			weapon introduced into county
15			facility.

16 Section 21. Local task force on retail crime.--Any
17 local law enforcement agency may establish a task force on
18 retail crime. The task force shall act as an advisory body to
19 study the problem of retail crime and develop recommendations
20 for handling retail crime and theft in an expeditious and
21 uniform manner. The task force shall submit its
22 recommendations to the sheriff or chief officer of the local
23 law enforcement agency, the state attorney, and the chief
24 judge of the judicial circuit. The sheriff or chief officer of
25 the local law enforcement agency shall appoint the members of
26 the task force. A majority of the membership of the task force
27 must consist of persons actively engaged in a retail business
28 or employees of persons actively engaged in a retail business.
29 The task force shall terminate existence upon completing its
30 assignment.
31

1 Section 22. If any provision of this act or the
2 applications thereof to any person or circumstance is held
3 invalid, the invalidity does not affect other provisions or
4 applications of the act which can be given effect without the
5 invalid provision or application, and to this end the
6 provisions of this act are declared severable.

7 Section 23. This act shall take effect July 1, 2000.

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LEGISLATIVE SUMMARY

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Revises various provisions governing the sale of merchandise. Requires that persons selling merchandise or services from the highway right-of-way post a peddler's license or notice of the property owner's permission. Revises procedures governing claims for misappropriated goods held by a pawnbroker. Provides requirements with respect to flea markets and flea market vendors. Requires flea market vendors to retain invoices or receipts for certain goods. Provides for threefold damages following an offense involving the giving of worthless checks, drafts, or debit card orders. Describes additional offenses of theft which constitute grand theft of the second degree. Increases various penalties for the offense of retail theft. Provides penalties for dealing in stolen property by use of the Internet. Requires the court to consider an offender's complete prior record in sentencing for a violation involving theft, dealing in stolen property, or passing worthless checks. Provides certain enhanced penalties for such violations. Authorizes a merchant or security officer to conduct visual surveillance of dressing rooms or restrooms in a manner consistent with routine security activities. Authorizes local law enforcement agencies to establish a task force on retail crime. (See bill for details.)