

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1282

SPONSOR: Criminal Justice Committee and Senators Burt and Horne

SUBJECT: Property Crimes

DATE: April 3, 2001                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	<u>APJ</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

Committee Substitute for Senate Bill 1282 is intended to address numerous property-related crimes. The CS does the following:

- ▶ Amends various definitions to facilitate the arrest and prosecution of retail theft.
- ▶ Includes as “retail theft” the theft of “property” and also altering a universal product code.
- ▶ Provides for releasing business addresses (rather than personal addresses) of merchants or merchant’s employees to any investigative law enforcement officer.
- ▶ Increases the penalty degree of possession or use of an antishoplifting or inventory control device countermeasure from a first degree misdemeanor to a third degree felony, and authorizes repeat-offender sentencing.
- ▶ Creates felony offenses relevant to particular types of retail theft, such as retail theft through concerted and coordinated actions, multiple thefts committed within a limited time period and thefts accompanied by the suspect’s violent resistance of detention efforts.
- ▶ Requires suspension of the driver’s license of a person adjudicated guilty of misdemeanor theft or retail theft, and provides for driver’s license suspension as a sentencing alternative to confinement or detention for a minor who is a first-time offender.
- ▶ Creates misdemeanor offenses for requesting a refund for or obtaining anything of value through the use of a fraudulently obtained or false receipt.
- ▶ Creates a misdemeanor and felony offense for dealing in stolen property over the Internet.
- ▶ Creates felony offenses for unlawful use of a scanner or reencoder.
- ▶ Creates felony offenses for forging checks or drafts; possessing, uttering, passing, or tendering forged checks or drafts; bringing into the state forged checks or drafts; fraudulently connecting together parts of a check or draft to produce an additional check or draft, with the intent to pass the additional draft or check off as a genuine instrument.

- ▶ Creates a felony offense for counterfeiting a payment instrument with intent to defraud and designates particular evidentiary facts that would constitute prima facie evidence of intent to defraud.
- ▶ Creates a misdemeanor and felony offense for drawing a check, draft, or debit card order on a closed account, and also creates a felony offense for committing for the third or subsequent time the offense of drawing a check, draft, or debit card order on a closed account.
- ▶ Provides an explicit statement on statutory construction of the worthless check section to indicate that the fact that a drawer has previously drawn a worthless check, draft, or debit card does not indicate that the payee knows, has been expressly notified, or has reason to believe drawer has insufficient funds.
- ▶ Provides that it is unlawful for any merchant to surreptitiously directly observe or make use of videotaping or visual surveillance to observe or record customers in the merchant's dressing room, fitting room, changing room, or restroom. It appears that this provision is directed at the situation in which the merchant or merchant's employee is directly observing the customer in a dressing room or other specified place where there is a reasonable expectation of privacy, but the customer does not know or have reason to know that she or he is being directly observed. (*see* "Effect of Proposed Changes")
- ▶ Ranks various current and new property offenses for the purpose of sentencing.
- ▶ Provides an explicit legislative statement encouraging each local law enforcement agency to create a task force on retail crime and indicates how such task force, if created, should be composed and conducted.
- ▶ Provides that the CS takes effect July 1, 2001.

This CS substantially amends or creates the following sections of the Florida Statutes: 812.015; 812.0155; 812.017; 812.0195; 817.625; 831.07; 831.08; 831.09; 831.11; 831.12; 831.28; 832.05; 877.26; and 921.0022. This CS also reenacts 831.10, F.S., for the purpose of incorporating the amendment to s. 831.09., F.S., in reference thereto.

## II. Present Situation:

### Retail or Farm Theft

Section 812.015, F.S., punishes retail or farm theft. "Retail theft" is defined as "the taking, possession of or carrying away of merchandise, money, or negotiable documents; altering or removing a label or price tag; transferring merchandise from one container to another; or removing a shopping cart, with intent to deprive the merchant of possession, use, benefit, or full retail value."

This section presently defines a "merchant" as "an owner or operator, or the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises or apparatus used for retail purchase or sale of any merchandise."

There are presently three penalty provisions in s. 812.015, F.S. First, a second or subsequent conviction for petit theft from a merchant, farmer, or transit agency is a petit theft of the second degree, except that the court must impose a fine of not less than \$50 or more than \$1,000 (unless the court imposes public services hours in lieu of but commensurate to the fine).

Second, it is unlawful for a person committing or after committing theft of property, transit fare evasion, or trespass, to resist the reasonable effort of a law enforcement officer, merchant, merchant's employee, farmer, or a transit agency's employee or agent to recover the property or cause the person to pay the proper transit fare or vacate the transit facility which the law enforcement officer, merchant, merchant's employee, farmer, or a transit agency's employee or agent had probable cause to believe the individual had concealed or removed from its place of display or elsewhere or perpetrated a transit fare evasion or trespass. This offense is a first degree misdemeanor, unless the person did not know, or did not have reason to know, that the person seeking to recover the property was a law enforcement officer, merchant, merchant's employee, farmer, or a transit agency's employee or agent. This offense is not currently punishable under the repeat offender provisions of s. 775.084, F.S.

Third, possession of any "antishoplifting or inventory control device countermeasure" within any premises used for the purchase or sale of any merchandise is a first degree misdemeanor. Use or attempted use of such countermeasure is a third degree felony. The third degree felony is unranked, and therefore defaults to a level 1 ranking for the purpose of sentencing. s. 921.0023, F.S.

Section 812.015, F.S., defines an "antishoplifting or inventory control device" as "a mechanism or other device designed and operated for the purpose of detecting the removal from a mercantile establishment or similar enclosure, or from a protected area within such an enclosure, of specially marked or tagged merchandise." An "antishoplifting or inventory control device countermeasure" is defined as any item or device which is designed, manufactured, modified, or altered to defeat any antishoplifting or inventory control device."

### **Revoking, Suspending, or Withholding Issuance of a Driver's License**

Numerous sections of the Florida Statutes provide for revocation, suspension, or the withholding of the issuance of a driver's license. For example, the following are but a few of the sections specifically providing for such sanction:

- ▶ Mandatory revocation or suspension of, or delay of eligibility for a minor's driver's license if the minor commits certain alcohol, drug, or tobacco offenses (s. 322.056, F.S.).
- ▶ Mandatory revocation or suspension of, or delay of eligibility for a minor's driver's license if the minor uses a fake driver's license or State identification card to induce a licensee to serve him or her alcoholic beverages (s. 562.11, F.S.).
- ▶ Mandatory suspension of the driver's license of a person who leaves a gasoline station without paying for gasoline dispensed into the fuel tank of the person's motor vehicle (s. 812.014, F.S.).
- ▶ Mandatory suspension of the driver's license of a person who meets criteria for administration of a blood alcohol test (316.1932, F.S.).
- ▶ Revocation or the withholding of the issuance of the driver's license of a minor who commits certain firearm violations (s. 790.22, F.S.).

Revocation or suspension of the driver's license of a juvenile is one of the sanctions available to the court in a delinquency case. s. 985.231, F.S.

**Forging Bank Bills or Promissory Notes**

Section 831.07, F.S., provides that whoever falsely makes, alters, forges or counterfeits a bank bill or promissory note payable to the bearer thereof, or to the order of any person, issued by an incorporated banking company established in this state, or within the United States, or any foreign province, state or government, with intent to injure any person, commits a third degree felony. The third degree felony is ranked in level 2 of the Criminal Punishment Code offense severity level ranking chart. s. 921.0022, F.S.

**Possessing Certain Forged Notes or Bills**

Section 831.08, F.S., provides that whoever has in his or her possession 10 or more similar false, altered, forged or counterfeit notes, bills of credit, bank bills or notes, payable to the bearer thereof or to the order of any person, knowing the same to be false, altered, forged or counterfeit, with intent to utter and pass the same as true, and thereby to injure or defraud any person, commits a third degree felony. The third degree felony is ranked in level 2 of the Criminal Punishment Code offense severity level ranking chart. s. 921.0022, F.S.

**Uttering Forged Bills**

Section 831.09, F.S., provides that whoever utters or passes or tenders in payment as true, any such false, altered, forged or counterfeit note, or any bank bill or promissory note, payable to the bearer thereof or to the order of any person, issued as previously stated, knowing the same to be false, altered, forged or counterfeit, with intent to injure or defraud any person, commits a third degree felony. The third degree felony is ranked in level 2 of the Criminal Punishment Code offense severity level ranking chart. s. 921.0022, F.S.

**Bringing Into the State Forged Bank Bills**

Section 831.11, F.S., provides that whoever brings into this state or has in his or her possession a false, forged or counterfeit bill or note in the similitude of the bills or notes payable to the bearer thereof or to the order of any person issued by or for any bank or banking company established in this state, or within the United States, or any foreign province, state or government, with intent to utter and pass the same or to render the same current as true, knowing the same to be false, forged or counterfeit, commits a third degree felony. The third degree felony is unranked, and therefore defaults to a level 1 ranking for the purpose of sentencing. s. 921.0023, F.S.

**Fraudulently Connecting Parts of a Genuine Instrument**

Section 831.12, F.S., provides that whoever fraudulently connects together parts of several banknotes or other genuine instruments in such a manner as to produce one additional note or instrument, with intent to pass all of them as genuine, commits forgery as if each of them had been falsely made or forged. Forgery is a third degree felony, ranked in level 2 of the Criminal Punishment Code offense severity level ranking chart. s. 921.0022, F.S.

### **Direct Observation, Videotaping or Visual Surveillance in Merchant's Dressing Room and other Places**

Section 877.26, F.S., provides that it is a first degree misdemeanor for any merchant to directly observe or make use of video cameras or other visual surveillance devices to observe or record customers in the merchant's dressing room, fitting room, changing room, or restroom when such room provides a reasonable expectation of privacy. The term "merchant," as used in this section means an owner or operator, or the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises or apparatus used for retail purchase or sale of any merchandise.

### **III. Effect of Proposed Changes:**

Provided is a section-by-section analysis of CS/SB 1282:

#### ***Section 1.***

The CS amends s. 812.015, F.S., which relates to retail and farm theft and transit fare evasion. The definition of "merchant" in s. 812.015, F.S., is supplemented with a statement that the term "merchant's employee" includes a private security guard employed or contracted by one or more merchants or by a shopping center, shopping mall, or other business establishment.

The definition of "retail theft" in s. 812.015, F.S., is amended to include taking possession of or carrying away property and altering or removing a universal product code.

A "universal product code," "UPC" or "UPC bar code" is a code that originates with the Uniform Code Council (UCC). Manufacturers apply and pay a fee to the UCC for permission to enter the UPC system. The UCC issues the manufacturer a manufacturer identification number and provides the manufacturer with guidelines on its use. The code you see on products includes this number, an item number (which identifies the particular item), and a check digit (which is a check on whether the scanner is correctly reading the code). When a scanner scans the UPC bar code, the cash register sends the UPC number to the store's central Point of Sale (POS) computer, which looks up the bar code and sends back the current price of the item.

The definition of "antishoplifting or inventory control device" in s. 812.015, F.S., is supplemented with a statement that this definition includes any video recording or other film used for security purposes and the cash register tape or other record made of the register receipt.

The definition of "antishoplifting or inventory control device countermeasure" in s. 812.015, F.S., is amended to include *use* of any item or device to defeat any antishoplifting or inventory control device.

The CS provides that if a merchant or merchant's employee takes a person into custody as provided in s. 812.015, F.S., or acts as a witness with respect to any person taken into custody as provided in s. 812.015, F.S., the merchant or merchant's employee may provide his or her business address rather than home address to any investigating law enforcement officer.

The CS amends the provision on unlawful possession of an antishoplifting or inventory control device countermeasure to increase the penalty for this offense from a first degree misdemeanor to a third degree felony and adds reference to s. 775.084, F.S., in order to make available the repeat offender sanctions of that section.

The CS provides that if a person commits retail theft, it is a second degree felony, if the property stolen is valued at \$150 or more, and the person:

- ▶ Individually, or in concert with one or more other persons, coordinates the activities of one or more individuals in committing the offense, in which case the amount of each individual theft is aggregated to determine the value of the property stolen.
- ▶ Commits theft from more than one location with a 48-hour period, in which case the amount of each individual theft is aggregated to determine the value of the property stolen.
- ▶ Acts in concert with one or more other individuals within one or more establishments to distract the merchant, merchant's employee, or law enforcement officer in order to carry out the offense, or act in other ways to coordinate efforts to carry out the offense.
- ▶ Unlawfully possesses a controlled substance or drug paraphernalia at the time of the offense.
- ▶ Commits the offense through the purchase of merchandise in a package or box that contains merchandise other than, or in addition to, the merchandise purported to be contained in the package or box.
- ▶ Resists with violence efforts by the merchant, merchant's employee, or law enforcement officer to detain the offender.

## *Section 2.*

With one exception, the CS provides that a court is required to order the suspension of the driver's license of each person adjudicated guilty of a misdemeanor violation of s. 812.014, F.S., the general theft statute, and s. 812.015, F.S., the retail theft statute, regardless of the value of the property stolen. License suspension is for:

- ▶ A period of up to 6 months, if a first suspension.
- ▶ One year for a second or subsequent suspension.

The exception previously noted is if the offender is a minor and is a first-time offender. In this case, the court is authorized to revoke, suspend or withhold issuance of the minor's driver's license as an alternative to sentencing the offender to juvenile or adult probation, juvenile commitment, community control or incarceration. Suspension, revocation or the withholding of the issuance of the minor driver's license is as provided:

- ▶ If the person is eligible by reason of age for a driver's license or driving privilege, the court must direct the Department of Motor Highway Safety and Motor vehicles ("department") to revoke or withhold issuance of the person's driver's license or driving privilege for not less than 6 months and not more than 1 year.
- ▶ If the person's driver's license is under suspension or revocation for any reason, the court must direct the department to extend the period of suspension or revocation by not less than 6 months and not more than 1 year.

- ▶ If the person is ineligible by reason of age for a driver's license or driving privilege, the court must direct the department to withhold issuance of the person's driver's license or driving privilege for not less than 6 months and not more than 1 year after the date on which the person would otherwise become eligible.

The provisions relating to minors who are first-time offenders do not preclude the court from imposing any sanction specified or not specified in those provisions.

### ***Section 3.***

The CS creates s. 812.017, F.S., which makes it a second degree misdemeanor to request a refund of merchandise, money, or anything of value through the use of a fraudulently obtained receipt or false receipt. It is a first degree misdemeanor to obtain merchandise, money, or anything of value through the use of a fraudulently obtained receipt or false receipt.

### ***Section 4.***

The CS creates s. 812.0195, F.S., which provides that any person in this state who uses the Internet to sell or offer for sale any merchandise or other property that the person knows, or has reasonable cause to believe, is stolen commits a second degree misdemeanor if the value of the property is less than \$150, and a third degree felony, if the value of the property is \$150 or more.

### ***Section 5.***

The CS creates s. 817.625, F.S., which provides that it is a third degree felony to:

1. Use a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card without the permission of the authorized user of the payment card and with the intent to defraud the authorized user.
2. Use a reencoder to place information encoded on the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different card without the permission of the authorized user and with the intent to defraud the authorized user of the card from which the information is reencoded and with the intent to defraud the authorized user.

The CS also provides that a second or subsequent violation of this section is a second degree felony.

The CS defines several terms:

1. "Scanning device" means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card.

2. “Reencoder” means an electronic device that places encoded information from the magnetic strip or stripe of a payment card onto the magnetic stripe or stripe of a different payment card.
3. “Payment card” means a credit card, charge card, debit card, or any other card that is issued to an authorized card user and that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant.
4. “Merchant” means a person who receives from an authorized user of a payment card, or someone the person believes to be an authorized user, a payment card or information from a payment card, as the instrument of obtaining, purchasing, or receiving goods, services, money, or anything else of value from the person.

***Section 6.***

The CS amends s. 831.07, F.S., to provide that the offense of forging bank bills or promissory notes also applies to checks or drafts.

***Section 7.***

The CS amends s. 831.08, F.S., to provide that the offense of possessing certain forged notes or bills also applies to checks or drafts.

***Section 8.***

The CS amends s. 831.09, F.S., to provide that the offense of uttering forged bills also applies to checks, drafts or notes.

***Section 9.***

The CS reenacts s. 831.10, F.S., (second conviction of uttering forged bills) for the purpose of incorporating the amendments to s. 831.09, F.S., in references thereto.

***Section 10.***

The CS amends s. 831.11, F.S., to provide that the offense of bringing into the state forged bank bills also applies to checks, drafts, or notes.

***Section 11.***

The CS amends s. 831.12, F.S., to provide that the offense of fraudulently connecting parts of a genuine instrument also applies to checks or drafts.

**Section 12.**

The CS creates s. 831.28, F.S., to make it a third degree felony to counterfeit a payment instrument with the intent to defraud a financial institution, account holder, or any other person or organization or for a person to have a counterfeit payment instrument in such person's possession.

The term "counterfeit" is defined as the manufacture of or arranging to manufacture a payment instrument, as defined in s. 560.103, F.S., without the permission of the financial institution, account holder, or organization whose name, routing number, or account number appears on the payment instrument, or the manufacture of any payment instrument with a fictitious name, routing number, or account number.

The CS further provides that the printing of a payment instrument in the name of a person or entity with the routing number or account number of a person or entity without the permission of the person or entity to manufacture or reproduce such payment instrument with the name, routing number, or account number is prima facie evidence of intent to defraud.

This provision employs the evidentiary device known as a "permissive inference." This inference "allows--but does not require--the trier of fact to infer the elemental fact from proof by the prosecutor of the basic one and . . . places no burden of any kind on the defendant. In that situation, the basic fact may constitute prima facie of the elemental fact. . . ." *County Court v. Allen*, 442 U.S. 140 (1979). In *State v. Rolle*, 560 So.2d 1154 (Fla. 1990), the Florida Supreme Court interpreted the words "prima facie," when used in the DUI statute, to create a permissive inference, not an unconstitutional presumption. "Criminal acts declaring one fact prima facie evidence or presumption of another are frequent. Their purpose is not to relieve the State of the burden of proof, but to allow the establishment of a prima facie case." *State v. Kahler*, 232 So.2d 166, 168 (Fla. 1970).

Finally, the CS provides that this new section does not apply to a law enforcement agency that produces or displays counterfeit payment instruments for training or educational purposes.

**Section 13.**

The CS amends s. 832.05, F.S., which relates to giving worthless checks, drafts, and debit card orders. The CS makes it unlawful for a person, firm or corporation to draw, make, utter, issue, or deliver to another a check, draft, or debit card order for the payment of money or its equivalent, knowing at the time of the drawing, making, uttering, issuing, or delivering of such check, draft, or debit card order that the check, draft, or debit card order is drawn on a bank or depository in which the maker or drawer has no account or a closed account. If the amount of the check, draft, or debit card order is less than \$150, the violation is a first degree misdemeanor; if \$150 or more, it is a third degree felony.

The CS makes it a third degree felony for a third or subsequent time committing the offense of passing a check, draft or debit card order without sufficient funds or obtaining property or services by this means.

The CS provides for the following construction of s. 832.05, F.S.: a payee or holder does not have knowledge, express notification, or reason to believe that the maker or drawer has insufficient funds to ensure payment of a check, draft, or debit card solely because the maker or drawer has previously drawn or issued a worthless check, draft, or debit card order to the payee or holder.

This provision is intended to address language that appears in various provisions of s. 832.05, F.S. In the provision making it unlawful to draw a check, draft, or debit card order, knowing at the time that the drawer has insufficient funds, and in the provision making it unlawful to obtain property or services through such a check, draft, or debit card order, there is an exception when the payee knows, has been expressly notified, or has reason to believe that the drawer did not have on deposit or to the drawer's credit with the drawee sufficient funds to ensure payment. Further, similar language appears in the provision of s. 832.05, F.S., addressing reasons to dishonor a check, draft or other written order and the duty of the drawee. If it is determined at the trial in a prosecution under s. 832.05, F.S., that the payee did have knowledge or reason to believe (as previously described) that the drawer had insufficient funds, than the payee instituting the criminal prosecution is assessed all costs of court incurred in connection with the prosecution.

The construction of the statute created by the CS appears to mainly address the phrase "reason to believe" of the previously described language. In that businesses may be franchise operations, or be completely unconnected by any parent company, or even if offices of a single company, may be in different locations and handle numerous transactions on any given day, it might be difficult, if not impossible, for the business to keep track of the transactions of the payer or drawer who is passing worthless checks. The construction of the statute created by this CS would prevent any construction of the "reason to believe" phrase to mean that a business has "reason to believe" that a payer or drawer has insufficient funds based solely on a previous transaction in which the payer or drawer passed a worthless check, even if two or more transactions of this type occurred on the same day.

#### ***Section 14.***

The CS amends s. 877.26, F.S., which relates to direct observation, videotaping, or visual surveillance of customers in a merchant's dressing room, fitting room, changing room, or restroom. The offense under this section is amended so that it no longer may be triggered by the merchant's "direct observation" of a customer in the previously described places, but rather by the merchant surreptitiously and directly observing a customer in such places.

The CS provides that, for purposes of s. 877.26, F.S., a merchant or merchant's employee does not surreptitiously and directly observe a customer if the customer knows or has reason to be aware of the presence of the merchant or merchant's employee in the merchant's dressing room, fitting room, changing room, or restroom, even when such room provides a reasonable expectation of privacy.

It appears that the intent of this amendment is to prevent a merchant or merchant's employee from being held civilly liable for directly observing a customer in a dressing room or other specified places where the customer has a reasonable expectation of privacy if the customer is

aware or has reason to be aware of the merchant's or merchant's employee's direct observation of the customer. For example, a sales employee might walk into a dressing room containing several dressing compartments with doors, and the employee may directly observe the customer because the customer has left the door to the dressing compartment open. However, the amendments may arguably permit a broader interpretation.

### ***Section 15.***

The CS amends s. 921.0022, F.S., the offense severity level ranking chart for the Criminal Punishment Code to impose the following offense severity level rankings for offenses amended or created by the CS (offenses with an asterisk indicate offenses that are already ranked but are modified by the CS):

#### **Level 2**

- ▶ Possession, use or attempted use of an antishoplifting or inventory control device countermeasure (s. 812.015(7), F.S.) (third degree felony).
- ▶ Forging bank bills, checks, drafts, or promissory notes (s. 831.07, F.S.) (third degree felony).\*
- ▶ Possessing certain forged notes, bills, checks, or drafts (s. 831.08, F.S.) (third degree felony).\*
- ▶ Uttering forged notes, bills, checks, or drafts (s. 831.09, F.S.) (third degree felony).\*
- ▶ Bringing into the state forged bank bills, checks, drafts, or notes (s. 831.11, F.S.) (third degree felony).
- ▶ Fraudulently connecting parts of a genuine instrument (s. 831.12, F.S.) (third degree felony). See "*Technical Deficiencies*" Section

#### **Level 3**

- ▶ Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument (s. 831.28(2)(a), F.S.) (third degree felony).
- ▶ Giving a check, draft, or debit card order in the amount of \$150 or more, drawn on a nonexistent account (s. 832.05(5), F.S.) (second degree felony).
- ▶ Delivering, or obtaining property or services in return for, a worthless check, draft, or debit card; third or subsequent violation (s. 832.05(6), F.S.) (third degree felony).

#### **Level 4**

- ▶ Dealing in stolen property by use of the Internet; property stolen \$150 or more (s. 812.0195(2), F.S.) (third degree felony).
- ▶ Fraudulent use of a scanning device or reencoder (s. 817.625(2)(a), F.S.) (third degree felony).

**Level 5**

- ▶ Second or subsequent fraudulent use of a scanning device or reencoder (s. 817.625(2)(b), F.S.) (second degree felony).

**Level 6**

- ▶ Retail theft; property stolen \$150 or more and other specified circumstances (s. 812.015, F.S.) (second degree felony).

***Section 16.***

The CS provides an explicit legislative statement encouraging each local law enforcement agency to create a task force on retail crime and indicates how such task force, if created, should be composed and conducted. The task force should act as an advisory body to study and develop recommendations on retail crime and theft. These recommendations should be submitted to the sheriff and chief officer of the local law enforcement agency, the state attorney, and the chief judge of the judicial circuit. The sheriff and chief officer of the local law enforcement agency should appoint the members of the task force. The majority of the task force members should be persons actively engaged in retail business or employees of persons in such business. The task force should terminate upon completion of its assignment.

***Section 17.***

The CS provides a severability clause.

***Section 18.***

The CS takes effect on July 1, 2001.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

An impact analysis was requested from the Criminal Justice Estimating Conference but was not received prior to completion of this analysis. It is likely that this CS will have an impact, particularly the amendments relevant to retail theft.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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