



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2007 Assembly Bill 340	Assembly Amendments 1 and 2 and Senate Amendment 1
<i>Memo published:</i> March 7, 2008	<i>Contact:</i> Anne Sappenfield, Senior Staff Attorney (267-9485) Ronald Sklansky, Senior Staff Attorney (266-1946)

Under *current law*, the penalty for retail theft is based on the value of the merchandise taken. Retail theft is a Class A misdemeanor if the value of the merchandise does not exceed \$2,500. It is a Class I felony if the value of the merchandise taken exceeds \$2,500, but does not exceed \$5,000.

Also under current law, a person may be convicted of engaging in organized crime, a Class E felony, if the person participates as part of an enterprise (which may be a group of associates) in the commission of at least three incidents of racketeering activity that have the same or similar intents, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics. "Racketeering activity" is the attempt, conspiracy to commit, or commission of various felonies including felony retail theft. The Attorney General may prosecute organized crime. A district attorney (DA) may prosecute organized crime only with the prior written permission of the Attorney General.

Assembly Bill 340 makes retail theft of merchandise a Class I felony if the value of the merchandise exceeds \$500, but does not exceed \$5,000. Also, under the bill, retail theft of merchandise that is valued at less than \$500 is a Class I felony if the actor commits the theft with intent to sell the merchandise. The bill provides that a DA may prosecute organized crime without the prior written approval of the Attorney General if at least one of the incidents of racketeering activity is an attempt, conspiracy to commit, or commission of retail theft that occurred in a county served by the DA.

The bill also requires a person selling certain merchandise, such as baby food or cosmetics, at a flea market or similar facility to have proof that the person owns the merchandise and to make the proof available to a law enforcement officer for inspection. Proof of ownership includes, among other items, the name, address, telephone number, and signature of the supplier of the merchandise.

Assembly Amendment 1 deletes the provision of the bill under which a DA may prosecute organized crime without the prior written approval of the Attorney General if at least one of the

incidents of racketeering activity is an attempt, conspiracy to commit, or commission of retail theft that occurred in a county served by the DA.

Assembly Amendment 2 deletes the requirement that proof of ownership includes the signature of the supplier of the merchandise.

Senate Amendment 1 provides that a person who commits retail theft will be guilty of a Class A misdemeanor if the value of the merchandise involved does not exceed \$1,500. Similarly, the amendment provides that a person who commits retail theft with the intent to resell will be guilty of a Class I felony if the value of the merchandise involved does not exceed \$1,500.

Legislative History

On December 11, 2007, the Assembly adopted Assembly Amendments 1 and 2 on voice votes. On January 23, 2008, the Assembly passed Assembly Bill 340 on a voice vote.

On March 6, 2008, the Senate Committee on Judiciary, Corrections and Housing introduced and adopted Senate Amendment 1 and recommended concurrence in Assembly Bill 340, as amended, both on votes of Ayes, 5; Noes, 0.

AS:RS:ksm:jal