



Testimony before the Senate Committee on Judiciary and Public Safety

Senator André Jacque

February, 6, 2024

Chairman Wanggaard and Colleagues:

Thank you for the opportunity to testify as the author in support of Senate Bill 701, which strengthens state law to crack down on thieves who repeatedly victimize our neighborhoods, terrorize our businesses, and threaten violence in our communities. This proposal is an important deterrent to preventing further escalation of this lawlessness, and the price we all pay in the form of higher retail prices ourselves.

As brazen smash and grabs make the news, consequences are key. According to a recent edition of City Journal Magazine, “nearly two-thirds of the retailers surveyed by the National Retail Federation said that violence associated with store thefts has risen, led by organized gangs that resell the goods they steal.” We also know there's been an increasing trend of thieves traveling across state lines to engage in retail crime and other organized financial crimes, including identity theft and credit card fraud, choosing targets they think are more amenable to their activities. This bill is an important step to fighting back.

I'd like to explain the differences between the original bill and the recently introduced substitute amendment, which I worked with the stakeholders on and support. It is important to note that as originally proposed, this legislation would have aligned the felony thresholds for retail theft and conventional theft to be the same at \$500. Wisconsin is currently one of two states to have the highest threshold for theft of general property to be considered a felony in the entire country. Conventional theft cases include circumstances where money and movable property not being retailed is stolen at a retailer (generators, cash drop bags from registers, motorized equipment, etc.), as well as general theft in the community (presents/cash envelopes stolen from a wedding reception, neighborhood burglary, packages stolen off front porches, etc.). It also originally would have increased a misdemeanor offense to a felony with a maximum sentence of three years, or increases the maximum penalty for a felony offense by 50 percent if the theft (retail or conventional involves a risk of significant bodily harm-modeled after a Minnesota retail theft law passed just last year with broad bi-partisan support.

While I still support making these two changes, they are not incorporated into the substitute amendment in the interest of achieving enactment of improved retail theft prevention and prosecution with broad bi-partisan support yet this session.

As proposed in the initial bill language, Senate Substitute Amendment 1 would allow a prosecutor to aggregate the value of property stolen or received within a six-month period, codifying the 2019 Wisconsin Supreme Court Decision in *State v. Lopez*. Additionally, it would allow prosecutors to consolidate offenses committed in multiple counties into a single filing.

The substitute amendment would also create the necessary statutory language for the Department of Justice to award grants to consortia of district attorneys, law enforcement agencies, and counties for the purpose of forming task forces to improve response to, investigation of, and prosecution of organized retail theft crimes, vehicle and vehicle accessory thefts and cargo theft, with the intent of allocating dedicated funding for this purpose in the next biennial budget.

Thank you for your consideration of Senate Bill 701. I'd be happy to answer any questions.



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February 6, 2024

Senate Committee on Judiciary and Public Safety

Testimony from Rep. William Penterman in favor of Senate Bill 701

Chair Wanggaard and members of the Senate Committee on Judiciary and Public Safety – thank you for taking my testimony in support of Senate Bill 701 (SB 701), theft crimes and providing a penalty. Further, I would like to highlight the Senate Substitute Amendment 1 to SB 701, as this gives little more strength to the bill and in hopes of finding a way to prosecute retail theft as the more serious offense it has now become.

The rising incidents of retail crime, characterized by brazen smash-and-grab thefts and organized criminal activities, have become a significant concern for ALL of our communities, local businesses, and residents. The proposed legislative amendments address the urgent need to enhance our response to these criminal activities and provide a robust deterrent to those who repeatedly victimize our neighborhoods. National attention has been given to the issue as governors of large states, like New York and California, have announced plans to crack down on retail crime. Even our neighbor to the west, Minnesota, updated its retail crime package and some even consider that new law stronger than what Wisconsin currently has in place. In Wisconsin, law enforcement reports a rise in individuals entering stores, quickly grabbing merchandise, and fleeing becoming a serious concern for public safety.

SB 701 allows prosecutors to aggregate the value of stolen property over a six-month period, facilitating a comprehensive assessment of criminal activities by repeat offenders. Additionally, it empowers the Department of Justice (DOJ) to provide grant funds to district attorneys, law enforcement agencies, and counties for the creation of task forces targeting organized retail theft, vehicle theft, and cargo theft. This initiative aims to bolster the response and prosecution of theft crimes, fostering safer communities throughout the entire state.

As of November 2023, 13 states have established some type of task force or network to help serve law enforcement, prosecutors, and businesses as they work together on investigating and/or prosecuting retail crime.

SB 701 marks a critical step in addressing the escalating threat of retail crime, ensuring public safety across the entire state and creating safer communities for Wisconsin residents.

Thank you for your attention to this matter.



Testimony of

Michael Semmann (WGA) and Joe Laufenberg (Festival Foods)

On Behalf of the

Wisconsin Grocers Association

Before the

Committee on Judiciary and Public Safety

Senate Bill 701/Assembly Bill 928 (Amended)

February 6, 2024

Chair Wanggaard and members of the Committee, thank you for the opportunity to speak before the committee today in support of Senate Bill 701 (with amendment) relating to theft and providing a penalty. WGA does support the Amendment to SB 701/AB 928 that will modernize retail crime statutes related to aggregation of crimes along with the creation of Organized Retail Theft Block Grants (enabling language: no current fiscal). WGA thanks Senators, Jaque, Hutton, and Pfaff for their efforts to advance the bill and the amendment.

Retail theft in grocery stores has been a growing problem in recent years. Despite the efforts of law enforcement and some actions on the federal level, theft remains a significant challenge for retailers, impacting safety for the community, employees, and financial concerns to the company.

As a result, retailers are rolling out new technologies and strategies to combat retail theft in all forms. For instance, technology aimed at deterring theft and protecting displayed products is becoming increasingly common. However, it can also leave shoppers confused at best and frustrated in some situations. Some grocery stores have expanded their staff to include asset protection specialists, specifically to tackle the growing problem of organized retail crime (ORC), with some grocers establishing full ORC units. These roles and teams are effective, leading to more apprehensions, prosecutions and civil demands of ORC crime. Despite these efforts, theft continues to be a major problem for retailers. According to some estimates, a mid-sized grocery store can catch 10 to 12 shoplifters in a week. Along with theft, retail workers are also facing an increase in violence and the threat of violence.

One grocery store identified a 36% increase in retail theft activity from 2021 to 2022 and the numbers remained strong in 2023. These are incidents they were able to capture and record. However, there are many more retail theft incidents they don't capture due to the sheer volume of traffic in the stores. Unfortunately, retailers do not have the manpower to capture every theft that takes place. Also, as can be expected, theft incidents are more prevalent in geographies with denser populations. However, high-traffic corridors are increasingly vulnerable.

What are the most treasured products for shoplifters from a retail grocery store? Items that are saleable on the street and on-line platforms such as liquor, red bull, baby formula, laundry detergent, and analgesics such as cough & cold medicines, among other items.

Wisconsin Retail Theft Statistics (CapitalOne)

Retailers in Wisconsin lost \$1.422 billion in revenue to theft in 2022.

- Wisconsin retailers lost \$305.98 in sales per capita in 2022.
- Retail theft per capita in Wisconsin is 11.1% lower than the average among states.
- Theft of \$2,500 or more is a felony in Wisconsin.
- Return fraud cost Wisconsin retailers an estimated \$1.544 billion in sales revenue, bringing lost retail sales up to \$2.966 billion.
- The State of Wisconsin lost out on \$71.1 million in retail sales tax dollars due to theft.
- Wisconsin sales tax dollars lost to return fraud totaled \$77.2 million, bringing the total lost sales tax to \$148 million.

WGA and a coalition of groups support the amendment that would clarify and create two important concepts for our industry.

AGGREGATION OF CRIMES (NO INCREASE IN PENALTIES)

If a defendant commits more than one violation of theft of property or more than one violation of retail theft in a six-month period, the value of the property taken at each violation may be aggregated as one crime to determine the classification of the crime. The bill specifies that if the value is aggregated for crimes that occur in different jurisdictions, the crime may be tried in any jurisdiction in which the theft was committed.

RETAIL THEFT BLOCK GRANT

The Retail Theft Prevention Block Grant Program would be a competitive grant program designed to support local law enforcement agencies in an investigation, responding to and prosecuting organized retail theft, motor vehicle or motor vehicle accessory theft, or cargo theft. The Department of Justice, with financial oversight from the Joint Finance Committee, would administer this grant program and provide funding for District Attorneys, county sheriff's departments, police departments to create a task force designed to target retail theft that has a detrimental impact on a neighborhood/municipality/local region.

Thank you.

Good Morning. My name is Joe Laufenberg, and I am the Senior Director of Asset Protection at Festival Foods. I have been with Festival for 19 years, working in Asset Protection the entire time.

My testimony today will shed light on the profound impact of Organized Retail Theft, not only on the retail industry but, more importantly, on the safety and well-being of our associates and guests. We are seeing an increased amount of Organized Retail Theft at Festival Foods. These subjects often times travel throughout the state using aggressive tactics and threats to commit retail theft. They bring immediate danger to our team and guests, often resorting to aggression or violence when faced with apprehension.

I would like to share a recent example of a shoplifter who was responsible for stealing thousands of dollars in products and was confronted inside our store while attempting to steal a cart full of Red Bull energy drinks. A confrontation with law enforcement took place in our produce department, resulting in the offender being subdued with a taser, a distressing scene witnessed by both staff and shoppers. This

offender was apprehended by police weeks before this incident and released one week before returning to our store.

The safety of our associates is of paramount concern, as highlighted by the repeated and escalating assaults and threats at our Madison store, located at 810 East Washington Ave. These confrontations with shoplifters have become so severe that we've had to install security gates to protect our associates. This escalation underscores the physical risks they endure and the pressing need to pass this bill to alleviate such threats. Many of the situations our team is dealing with are known repeat offenders who continue to come back and steal from our store after being cited for theft.

Furthermore, the impact of Organized Retail Theft extends beyond immediate physical dangers. These groups frequently target and deplete our stocks of essential items, such as baby formula and allergy medications, significantly disrupting the availability of these products. Their actions directly affect the community, depriving them of necessities and compounding the challenges faced by vulnerable populations.

The implementation of the Aggregation of Crimes and the Retail Theft Block Grant Program will provide essential assistance to District Attorneys, county sheriff's departments, and police departments. This support is crucial for addressing not only the specific incidents I've described but also the broader challenges of the intricate criminal landscape confronting retailers throughout the state.

I ask for your support for SB 701/AB 928, which will be a much-needed step forward in our collective efforts to safeguard our associates, our guests, and the overall safety of our communities.

Thank you for your time and attention to this critical matter.

References:

- [Shoplifting Statistics \(2023\): Retail Theft Data by State \(capitaloneshopping.com\)](https://capitaloneshopping.com)
- [Organized retail theft groups target Milwaukee area \(wisn.com\)](https://www.wisn.com)
- [New York and California make retail theft top 2024 priority \(cnbc.com\)](https://www.cnbc.com)
- [Racine woman accused of stealing more than \\$900 worth of items from Pick 'n Save \(journaltimes.com\)](https://www.journaltimes.com)
- [Half of retail and grocery workers have seen a recent theft or attempted theft - MarketWatch](https://www.marketwatch.com)
- **DOJ Crime Alert Network: On JUNE 12, 2023**, two suspects (late teens, early 20's) entered the store and subsequently conducted 28 transactions at \$890 each (\$24,920.00) purchasing Netspend Visa Cards.
- **DOJ Crime Alert Network: January 26, 2024:** An unknown female concealed items in two different bags and left the store without making payment. The total value of the merchandise taken from Woodman's was \$450.77.
- [Organized retail theft: New Arizona bill gaining traction in the State Legislature \(yahoo.com\)](https://www.yahoo.com)
- [Florida retailers embrace AI to combat rise in retail theft \(floridapolitics.com\)](https://www.floridapolitics.com)
- [Lawmakers Work to Address Organized Retail Crime in 2023 with Tougher Sentencing Thresholds | MultiState](https://www.multistate.com)
- [New Minnesota law cracks down on organized retail theft \(twincities.com\)](https://www.twincities.com)
- [Retail Theft Task Force Makes More Than 400 Arrests - LA Weekly](https://www.laweekly.com)

The Wisconsin Grocers Association (WGA) is a non-profit trade association established in 1900 to represent independent grocers and grocery chains, warehouses & brokers, vendors, suppliers, and manufacturers before all levels of government. The WGA provides educational and networking opportunities, leadership training, public affairs, and compliance information for its membership.

WGA and its membership have a significant Economic Impact in the state of Wisconsin. The WGA represents nearly 350 independent grocers with multiple locations across the state, more than 200 retail grocery chain stores, warehouses and distributors, convenience stores, food brokers and suppliers. Wisconsin grocers employ over 30,000 people with over \$1 billion in payroll and generate more than \$12 billion in annual sales in Wisconsin resulting in approximately \$800 million in state sales tax revenue. (Data provided by The Food Institute).