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Testimony before the Senate Committee on Judiciary and Public Safety

Senator André Jacque

Senate Bill 92

March 13, 2025

Chairman Wanggaard and Colleagues:

Thank you for the opportunity to testify with Rep. Penterman as the authors of Senate Bill 92, 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.

Under current law, criminal penalties for property theft depend on the value of the stolen goods, ranging from a Class A misdemeanor for less than \$2,500, to a Class F felony if the value of the property exceeds \$100,000. Further, the penalty for the crime of retail theft varies by the value of the merchandise or service stolen. The penalty ranges from a Class A misdemeanor if the value is less than \$500, to a Class G felony if the value exceeds \$10,000.

Senate Bill 92 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*. As drafted, it would allow prosecutors to consolidate offenses of property theft and retail theft committed in multiple counties into a single filing. Due to constitutional concerns, we have an amendment drafted that would remove the cross-jurisdictional provision, but still allow consolidated filings in the same jurisdiction. The amendment also strengthens state law by enabling felony charges for those with prior misdemeanor convictions. With the amendment, the Assembly companion to this legislation (AB 89) passed the Assembly Criminal Justice Committee earlier this week on a 14-1 vote, and it will be on the Assembly floor later today.

With all the reports referencing Wisconsin’s high felony theft threshold in the context of spikes in the rate of retail theft, there is strong justification for making these changes to make charges available to prosecutors that address the seriousness of these crimes and increase penalties to thieves where warranted, making it easier to crack down on retail theft crimes that could lead to violent confrontations in the future, or other serious crimes down the road.

Thank you for your consideration of Senate Bill 92. I’d be happy to answer any questions.



Senate Committee on Judiciary and Public Safety Testimony in Support of Wisconsin Senate Bill 92 March 13, 2025

Chair Wanggaard and members of the Senate Committee on Judiciary and Public Safety, thank you for holding a public hearing on Senate Bill 92 (SB 92) relating to theft crimes and providing a penalty. SB 92 is an essential piece of legislation that takes a crucial step toward combating the growing threat of retail theft and organized theft crimes in Wisconsin.

Retail theft and organized crime rings continue to escalate across our state, threatening businesses, straining law enforcement resources, and endangering public safety. Criminals have become increasingly brazen, using coordinated smash-and-grab tactics and repeated thefts to exploit loopholes in existing law. Currently, penalties for theft and retail theft are based on the value of stolen goods per incident, allowing repeat offenders to systematically steal smaller amounts multiple times to avoid harsher penalties.

SB 92 strengthens state law by allowing prosecutors to aggregate the value of stolen property over a six-month period within the same prosecutorial unit, ensuring that habitual offenders face appropriate consequences. Additionally, the bill enhances penalties for repeat offenders. Under the amendment to SB 92, a person charged with a misdemeanor theft or retail theft offense may be convicted of a Class I felony if they have one or more prior theft-related convictions. Similarly, a person charged with a felony theft or retail theft offense may face a felony one classification higher than the original charge.

These provisions give law enforcement and prosecutors the necessary tools to hold repeat offenders accountable, deter organized theft rings, and protect businesses and consumers. While SB 92 does not introduce new penalties, it strengthens enforcement by closing loopholes and ensuring those who repeatedly engage in theft cannot continue to exploit weaknesses in the law.

Wisconsin should not be a safe haven for repeat offenders who target businesses and communities. SB 92 aligns our state with others that have enacted similar measures to combat organized retail crime and will help protect Wisconsin's businesses, employees, and consumers from the increasing impact of retail theft.

Thank you for your consideration of Senate Bill 92.

WMC

Wisconsin's Chamber

TO: Senate Committee on Judiciary and Public Safety

FROM: Evan Umpir, General Counsel & Director of Tax, Transportation, and Legal Affairs

DATE: 13 March 2025

RE: Support for SB 92; Relating to: theft crimes and providing a penalty.

Wisconsin Manufacturers & Commerce (WMC) appreciates the opportunity to **support Senate Bill (SB) 92** and thanks Senators Jacque and Hutton and Representative Penterman for introducing this bill. WMC supports this proposal. It will allow prosecutors to more easily charge thieves who spread crime and chaos by hopping store to store.

WMC is the largest general business association in Wisconsin, representing approximately 3,800 member companies of all sizes, and from every sector of the economy. Since 1911, our mission has been to make Wisconsin the most competitive state in the nation to do business. **Part of that mission is promoting crime-free communities, allowing businesses to keep products affordable and accessible and customers safe.**

Just as justice is blind, so too is crime. Thieves can exploit multiple victims, intentionally or not, to evade stricter punishment for a pattern of crime. **This legislation addresses situations when a thief steals from multiple different businesses, yet, because of the offender's odyssey, suffers no greater penalty if convicted in each case.** Senate Bill 92 allows a district attorney to aggregate multiple crimes (theft or retail theft) to seek a more severe penalty.

Last fall, Fox 6 featured a trio of shoplifters in Milwaukee County. Prosecutors note in the criminal complaint that two of the defendants, "have been well-known and prolific retail thieves at multiple retail stores in the state of Wisconsin since the beginning of 2019."¹ The complaint also details the defendants' multiple active retail theft cases in several counties. **Reminiscent of outlaws who dotted from outpost to outpost in the American West, modern bandits can evade stricter punishment by hopping from store to store.** One customer interviewed told Fox 6 for its story, "[i]t's not a good look, and it makes customers want to not even come to the store."

In addition to the ability to aggregate multiple crimes for a more severe charge, SB 92 as amended steps-up the penalty for repeat violations. This change will allow prosecutors to charge and punish these repeat perpetrators appropriately for their crime spree that is otherwise not adequately addressed by existing theft, retail theft, repeater, and other criminal statutes.

¹ Bria Jones, "Milwaukee accused serial shoplifters; 3 women charged, 1 on the run," Fox6 News (October 3, 2024), available at: <https://www.fox6now.com/news/milwaukee-accused-serial-shoplifters-3-women-charged-1-run>, (internal quotations omitted).

Repeat retail theft and organized retail crime is not a partisan issue. Just last month, Attorneys General from 38 states (including the District of Columbia) wrote Congress requesting action on measures to help them “combat the nationwide organized retail crime epidemic.”² Attorneys General who signed the letter were Democrats from Illinois, Michigan, and Minnesota, and Republicans from Iowa, Ohio, and Pennsylvania. Even voters in progressive California last November approved, by a margin of 69% to 31%, Proposition 36, which increases the penalty for repeat retail theft offenders.³ Supporting SB 92 is an opportunity for Wisconsin legislators to address the modern manifestations of retail theft and ensure the punishment fits the crimes.

* * *

As modern bandits move on to their next heist, Wisconsin retailers and shoppers are left in the dust. WMC urges you to hand prosecutors tools to combat modern retail theft by supporting Senate Bill 92 as amended.

² State Attorneys General, Letter to Congressional Leadership, February 24, 2025, *available at*: https://illinoisattorneygeneral.gov/News-Room/Current-News/Ltr%20to%20119th%20Congress%20re%20CORC_FINAL.pdf?language_id=1.

³ Tran Nguyen and Sophie Austin, “California voters pass initiative to make some shoplifting and drug offenses felonies,” Associated Press (November 6, 2024), *available at*: <https://apnews.com/article/california-ballot-propositions-2024-election-7e6c94f6d4d1f5660af1e4f326bd03ff>; *see also* Helen Jeong, “Prop 36 passes by overwhelming margin to toughen retail crime penalties,” NBC 4 Los Angeles (November 6, 2024), *available at*: <https://www.nbclosangeles.com/decision-2024/california-passes-prop-36/3553827/>.



Testimony of

Michael Semmann

On Behalf of the

Wisconsin Grocers Association (WGA)

Before the

Senate Committee on Judiciary and Public Safety

Senate Bill 92/Assembly Bill 89

March 13, 2025

Chair Wanggaard and members of the Committee, thank you for the opportunity to speak before the committee today in support of Senate Bill 92/Assembly Bill 89 and the amendment relating to theft and providing a penalty. WGA wishes to thank Senator Jacque, Representative Penterman and their staff for their efforts to support Wisconsin's retail industry.

Retail theft is a pervasive issue that continues to affect grocery stores across Wisconsin. The financial losses incurred due to theft are substantial, leading to increased prices for consumers and increased costs for businesses. Beyond the financial impact, theft also creates a sense of insecurity among employees and customers, which can affect the overall shopping experience. 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. 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.

Grocery stores have identified significant increases in retail theft since 2019. Most of 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 staffing levels 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 continue to be 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 an estimated \$71.1 million in sales tax dollars due to theft.

AGGREGATION OF CRIMES AND JURISDICTION (NO INCREASE IN PENALTIES)

In AB 89, 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.

Several states have enacted statutes or introduced legislation that address the aggregation of value in retail theft cases (albeit in different ways), particularly to combat organized retail crime.

- **Florida:** Allows law enforcement up to 12 months to aggregate the total value of thefts[1].
- **Kansas:** Similar to Florida, Kansas also permits a 12-month period for aggregating theft values[1].
- **New York:** Enacted measures that allow prosecutors to aggregate the value of multiple thefts[2].
- **Iowa:** Expanded the window for aggregating theft values to target organized retail crime[2].
- **Oklahoma:** Introduced legislation to extend the aggregation period to 12 months[1].
- **Washington:** Proposed a bill to allow a 12-month aggregation period[1].
- **North Carolina:** If a person is convicted of two or more of the same financial crimes, the crimes may be aggregated for sentencing if: (1) the person committed the crimes against more than one victim or in more than one county, and (2) the crimes are based on the same act or transaction or on a series of acts or transactions connected together [sic] or constituting parts of a common scheme or plan. [4]
- **California:** 490.3. Notwithstanding any other law, in a case involving one or more acts of theft or shoplifting, including, but not limited to, violations of Sections 459.5, 484, 488, and 490.2, the value of property or merchandise stolen may be aggregated into a single count or charge, with the sum of the value of all property or merchandise being the value considered in determining the degree of theft. [5]
- **Illinois:** (720 ILCS 5/16-25) Sec. 16-25. Retail theft. (d) Venue. Multiple thefts committed by the same person as part of a continuing course of conduct in different jurisdictions that have been aggregated in one jurisdiction may be prosecuted in any jurisdiction in which one or more of the thefts occurred. And see (720 ILCS 5/16A 2.2)(from Ch. 38, par. 16A 2.2) [3]

These laws help prosecutors charge offenders with more severe penalties by combining the values of thefts committed over a specified period.

References

- [1] [States Continue Targeting Organized Retail Crime | ICSC](#)
- [2] [Eight States Scored Major Legislative Victories on Combating Retail ...](#)
- [3] [720 ILCS 5/16-25](#)
- [4] [Aggregating Value: A Prosecutor's Guide to the New G.S. 15A-1340.16F – North Carolina Criminal Law](#)
- [5] [Today's Law As Amended - AB-2390 Theft: aggregation of amounts and diversion.](#)

Resources:

- [NRF_ImpactofRetailTheftViolence_2024.pdf](#)
- [Beloit man facing 10 felony charges in two theft cases | Crime | beloitdailynews.com](#)
- [Menomonee Falls Kohl's retail theft; multiple women face felony charges | FOX6 Milwaukee](#)
- [Shoplifting Statistics \(2023\): Retail Theft Data by State \(capitaloneshopping.com\)](#)
- [Organized retail theft groups target Milwaukee area \(wisn.com\)](#)
- [New York and California make retail theft top 2024 priority \(cnbc.com\)](#)
- [Racine woman accused of stealing more than \\$900 worth of items from Pick 'n Save \(journaltimes.com\)](#)
- [Half of retail and grocery workers have seen a recent theft or attempted theft - MarketWatch](#)
- **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.
- [Florida retailers embrace AI to combat rise in retail theft \(floridapolitics.com\)](#)
- [Lawmakers Work to Address Organized Retail Crime in 2023 with Tougher Sentencing Thresholds | MultiState](#)
- [New Minnesota law cracks down on organized retail theft \(twincities.com\)](#)
- [Retail Theft Task Force Makes More Than 400 Arrests - LA Weekly](#)

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).



March 13, 2025

Chair Van H. Wanggaard
Wisconsin Senate Committee on Judiciary
and Public Safety

RE: Support for Senate Bill 92 – Addressing Retail Theft and Organized Retail Crime

Dear Chair Wanggaard and Members of the Committee,

On behalf of the Alliance of Wisconsin Retailers—a coalition of consumer-facing retailers dedicated to fostering a thriving retail environment across Wisconsin—we extend our sincere gratitude to the committee for hearing Senate Bill 92 (SB 92). We also wish to thank Senator André Jacque and the bill's co-authors for their leadership in addressing the growing problem of retail theft and organized retail crime (ORC).

The retail industry plays a vital role in supporting Wisconsin's economy by providing great jobs, ensuring customer access to essential goods and services, and contributing to our communities. However, theft and ORC continue to impose significant challenges that extend far beyond financial losses. Retail theft, and ORC in particular, threatens retail sustainability, increases costs for consumers, and negatively impacts communities across the State.

Retail Theft and Organized Retail Crime is Growing in Wisconsin

Data illustrates the severity of this issue across Wisconsin:

- In 2022, retailers in Wisconsin lost \$1.422 billion in revenue to theft--including organized crime--according to an estimate from Capital One Shopping.
- As a result, the State of Wisconsin lost out on \$71.1 million in retail sales tax dollars due to theft in that same year.
- Wisconsin reported 626.31 retail theft cases per 100,000 businesses, underscoring the widespread challenge facing local retailers, as reported by OnFocus News.

While the financial losses are notable, the rise in violence associated with these crimes is an even greater concern. Retailers' top priority is ensuring the safety of employees and customers, however we are seeing a trend in the wrong direction:

- 73% of retailers report that criminals have become more aggressive and violent over the past year, with 84% expressing heightened concern about the violence

occurring during theft incidents, according to the 2024 “The Impact of Retail Theft and Violence Report” from the National Retail Federation.

- Across the country, the average theft incident has grown from \$937 in 2020 to \$1,180 in 2021, with total retail theft increasing from \$219.6 million to \$241.3 million during the same period, based on an analysis by the U.S. Chamber of Commerce.

SB 92 is a Needed Forward Step

Retail theft and ORC are becoming more sophisticated and brazen, often involving coordinated groups that target multiple stores in a short period. These crimes do not just impact national retailers—they severely hurt small businesses, many of whom lack the resources to absorb repeated losses.

SB 92 represents an important step in combating these challenges by:

- Strengthening legal frameworks to hold repeat offenders and organized crime networks accountable.
- Providing law enforcement with additional tools to deter and prosecute retail theft more effectively.
- Enhancing penalties for high-dollar theft incidents.
- Helping protect Wisconsin’s businesses, employees, and consumers from the damaging effects of theft and ORC.

We Urge Your Support

By supporting SB 92, Wisconsin can take meaningful action to curb the impact of ORC, strengthen our communities, ensure that retailers remain viable contributors to neighborhoods across the State. We respectfully urge the committee to support SB 92.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce Nustad". The signature is fluid and cursive, with a large initial "B" and "N".

Bruce Nustad
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