

117TH CONGRESS
2D SESSION

S. 5046

To combat organized crime involving the illegal acquisition of retail goods for the purpose of selling those illegally obtained goods through physical and online retail marketplaces.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2022

Mr. GRASSLEY (for himself and Ms. CORTEZ MASTO) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To combat organized crime involving the illegal acquisition of retail goods for the purpose of selling those illegally obtained goods through physical and online retail marketplaces.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Combating Organized
5 Retail Crime Act of 2022”.

6 **SEC. 2. FINDINGS.**

7 It is the sense of Congress that—

1 (1) organized retail crime, a crime involving
2 groups of individuals specifically targeting retail
3 stores, often by using violence or threats of violence
4 to subdue employees and shoppers while robbing
5 stores of their most valuable and easily diverted
6 merchandise, has been a growing concern to retail-
7 ers, industry, and law enforcement;

8 (2) retailers have seen a dramatic increase in
9 occurrences of organized retail crime, costing retail-
10 ers approximately \$720,000 per every
11 \$1,000,000,000 in sales in 2019, representing more
12 than a 50-percent increase in such losses since 2015.
13 Further, according to the National Retail Federa-
14 tion, the use of violence or aggression is increasing
15 in the commission of these crimes, with $\frac{2}{3}$ of retail-
16 ers reporting an increase of violence during the com-
17 mission of retail theft;

18 (3) organized retail crime—

19 (A) threatens the safety and liberty of in-
20 dividuals in the United States when those indi-
21 viduals engage in commerce;

22 (B) erodes the retail economy for cus-
23 tomers and businesses alike; and

24 (C) finances transnational criminal organi-
25 zations that use the proceeds of those thefts to

1 support the criminal goals of the criminal orga-
 2 nizations; and

3 (4) it has become necessary for Congress—

4 (A) to amend title 18, United States Code,
 5 to ensure that law enforcement has the legal
 6 tools necessary to combat organized retail crime
 7 in the same capacity as law enforcement is able
 8 to combat theft and diversion from other por-
 9 tions of the supply chain; and

10 (B) to direct the executive branch to create
 11 a central coordination center to align Federal,
 12 State, local, territorial, and Tribal efforts to
 13 combat organized retail crime.

14 **SEC. 3. AMENDMENTS TO TITLE 18, UNITED STATES CODE.**

15 Part I of title 18, United States Code, is amended—

16 (1) in section 982(a)(5)—

17 (A) by redesignating subparagraphs (C),
 18 (D), and (E) as subparagraphs (D), (E), and
 19 (F), respectively;

20 (B) by inserting after subparagraph (B)
 21 the following:

22 “(C) section 659 (interstate or foreign ship-
 23 ments by carrier; State prosecutions);”;

1 (C) in subparagraph (E), as so redesign-
2 nated, by striking “; or” and inserting a semi-
3 colon; and

4 (D) by inserting after subparagraph (F),
5 as so redesignated, the following:

6 “(G) section 2314 (transportation of stolen
7 goods, securities, moneys, fraudulent State tax
8 stamps, or articles used in counterfeiting); or

9 “(H) section 2315 (sale or receipt of stolen
10 goods, securities, moneys, or fraudulent State tax
11 stamps)”;

12 (2) in section 1956(c)(7)(D)—

13 (A) by inserting “section 659 (interstate or
14 foreign shipments by carrier; State prosecu-
15 tions),” after “section 658 (relating to property
16 mortgaged or pledged to farm credit agen-
17 cies),”; and

18 (B) by inserting “section 2314 (transpor-
19 tation of stolen goods, securities, moneys,
20 fraudulent State tax stamps, or articles used in
21 counterfeiting), section 2315 (sale or receipt of
22 stolen goods, securities, moneys, or fraudulent
23 State tax stamps),” after “section 2281 (relat-
24 ing to violence against maritime fixed plat-
25 forms),”;

1 (3) in section 2314, in the first paragraph—

2 (A) by inserting “or by using any facility
3 of interstate or foreign commerce,” after “com-
4 merce”;

5 (B) by inserting “or of an aggregate value
6 of \$5,000 or more during any 12-month pe-
7 riod,” after “more,”;

8 (C) by inserting “, embezzled,” after “sto-
9 len”; and

10 (D) by inserting “, false pretense, or other
11 illegal means” after “fraud”; and

12 (4) in section 2315, in the first paragraph—

13 (A) by inserting “or of an aggregate value
14 of \$5,000 or more during any 12-month pe-
15 riod,” after “\$5,000 or more,”;

16 (B) by striking “; or”; and

17 (C) by inserting “, or have been stolen, un-
18 lawfully converted, or taken by the use of any
19 facility of interstate or foreign commerce in the
20 commission of said act; or” at the end.

21 **SEC. 4. ESTABLISHMENT OF A CENTER TO COMBAT ORGA-**
22 **NIZED RETAIL CRIME.**

23 (a) IN GENERAL.—Title III of the Trade Facilitation
24 and Trade Enforcement Act of 2015 (19 U.S.C. 4341 et

1 seq.) is amended by inserting after section 305 the fol-
 2 lowing:

3 **“SEC. 305A. ORGANIZED RETAIL CRIME COORDINATION**
 4 **CENTER.**

5 “(a) DEFINITIONS.—In this section:

6 “(1) CENTER.—The term ‘Center’ means the
 7 Organized Retail Crime Coordination Center estab-
 8 lished pursuant to subsection (b)(1).

9 “(2) ORGANIZED RETAIL CRIME.—The term
 10 ‘organized retail crime’ includes—

11 “(A) any crime described in section 2314
 12 or 2315 of title 18, United States Code; and

13 “(B) aiding or abetting the commission of,
 14 or conspiring to commit, any act that is in fur-
 15 therance of a violation of a crime referred to in
 16 paragraph (1).

17 “(b) ORGANIZED RETAIL CRIME COORDINATION
 18 CENTER.—

19 “(1) ESTABLISHMENT.—Not later than 90 days
 20 after the date of the enactment of the Combating
 21 Organized Retail Crime Act of 2022, the Secretary
 22 of Homeland Security shall direct the Executive As-
 23 sociate Director of Homeland Security Investigations
 24 to establish the Organized Retail Crime Coordina-
 25 tion Center.

1 “(2) DUTIES.—The duties of the Center shall
2 include—

3 “(A) coordinating Federal law enforcement
4 activities related to organized retail crime, in-
5 cluding investigations of national and
6 transnational criminal organizations that are
7 engaged in organized retail crime;

8 “(B) establishing relationships with State
9 and local law enforcement agencies and organi-
10 zations, including organized retail crime asso-
11 ciations, and sharing information regarding or-
12 ganized retail crime threats with such agencies
13 and organizations;

14 “(C) assisting State and local law enforce-
15 ment agencies with their investigations of orga-
16 nized retail crime groups;

17 “(D) establishing relationships with retail
18 companies, sharing information with such com-
19 panies regarding organized retail crime threats,
20 and providing mechanisms for the receipt of in-
21 vestigative information on such threats;

22 “(E) establishing a secure system for shar-
23 ing information regarding organized retail
24 crime threats by leveraging existing information

1 systems at the Department of Homeland Secu-
2 rity and the Department of Justice;

3 “(F) tracking trends with respect to orga-
4 nized retail crime and releasing annual public
5 reports on such trends; and

6 “(G) supporting the provision of training
7 and technical assistance in accordance with sub-
8 section (c).

9 “(3) LEADERSHIP; STAFFING.—

10 “(A) DIRECTOR.—The Center shall be
11 headed by a Director, who shall be—

12 “(i) an experienced law enforcement
13 officer;

14 “(ii) appointed by the Director of
15 U.S. Immigration and Customs Enforce-
16 ment; and

17 “(iii) in the Senior Executive Service
18 (as defined in section 3132 of title 5,
19 United States Code).

20 “(B) DEPUTY DIRECTOR.—The Director of
21 the Center shall be assisted by a Deputy Direc-
22 tor, who shall be appointed, on a 2-year rota-
23 tional basis, upon request from the Executive
24 Associate Director of Homeland Security Inves-
25 tigations, by—

1 “(i) the Director of the Federal Bu-
2 reau of Investigation;

3 “(ii) the Director of the United States
4 Secret Service; or

5 “(iii) the Chief Postal Inspector.

6 “(C) FEDERAL STAFF.—The staff of the
7 Center shall include—

8 “(i) Special Agents and Analysts from
9 Homeland Security Investigations;

10 “(ii) detailed criminal investigators,
11 analysts, and liaisons from other Federal
12 agencies who have responsibilities related
13 to organized retail crime, including
14 detailees from—

15 “(I) U.S. Customs and Border
16 Protection;

17 “(II) the United States Secret
18 Service;

19 “(III) the United States Postal
20 Inspection Service; and

21 “(IV) the Bureau of Alcohol, To-
22 bacco, Firearms and Explosives.

23 “(D) STATE AND LOCAL STAFF.—The
24 staff of the Center may include detailees from
25 State and local law enforcement agencies, who

1 shall serve at the Center on a nonreimbursable
2 basis.

3 “(4) COORDINATION.—

4 “(A) IN GENERAL.—The Center shall co-
5 ordinate its activities, as appropriate, with
6 other Federal agencies and centers responsible
7 for countering transnational organized crime
8 threats.

9 “(B) SHARED RESOURCES.—In estab-
10 lishing the Center, the Executive Associate Di-
11 rector of Homeland Security Investigations may
12 co-locate or otherwise share resources and per-
13 sonnel, including detailees and agency liaisons,
14 with—

15 “(i) the National Intellectual Property
16 Rights Coordination Center, established
17 pursuant to section 305(a)(1); or

18 “(ii) other existing interagency cen-
19 ters within the Department of Homeland
20 Security.

21 “(C) AGREEMENTS.—The Director of the
22 Center, or his or her designee, may enter into
23 agreements with Federal, State, local, and Trib-
24 al agencies and private sector entities to facili-

1 tate carrying out the duties described in sub-
2 section (b)(2).

3 “(D) INFORMATION SHARING.—Subject to
4 the approval of the Director of the Center, in-
5 formation that would otherwise be subject to
6 the limitation on the disclosure of confidential
7 information set forth in section 1905 of title
8 18, United States Code, may be shared if such
9 disclosure is operationally necessary. The Direc-
10 tor may not delegate his or her authority under
11 this subparagraph.

12 “(5) REPORTING REQUIREMENTS.—

13 “(A) INITIAL REPORT.—

14 “(i) IN GENERAL.—Not later than 1
15 year after the date of the enactment of the
16 Combating Organized Retail Crime Act of
17 2022, the Secretary of Homeland Security
18 shall submit a report regarding the estab-
19 lishment of the Center to—

20 “(I) the Committee on the Judi-
21 ciary of the Senate;

22 “(II) the Committee on Home-
23 land Security and Governmental Af-
24 fairs of the Senate;

1 “(III) the Committee on the Ju-
2 diciary of the House of Representa-
3 tives; and

4 “(IV) the Committee on Home-
5 land Security of the House of Rep-
6 resentatives.

7 “(ii) CONTENTS.—The report required
8 under clause (i) should include a descrip-
9 tion of—

10 “(I) the organizational structure
11 of the Center;

12 “(II) the agencies and partner
13 organizations that are represented
14 within the Center;

15 “(III) any challenges that had to
16 be addressed while establishing the
17 Center;

18 “(IV) any lessons learned from
19 establishing the Center, including suc-
20 cessful prosecutions resulting from the
21 activities of the Center;

22 “(V) recommendations for ways
23 to strengthen the enforcement of laws
24 involving organized retail crime;

1 “(VI) recommendations for ways
2 to include organized retail crime with-
3 in a holistic supply chain security en-
4 forcement framework;

5 “(VII) the intersections and com-
6 monalities between organized retail
7 crime organizations and other orga-
8 nized theft groups, including supply
9 chain diversion and theft; and

10 “(VIII) the impact of organized
11 theft groups on the scarcity of vital
12 products, including medicines, per-
13 sonal protective equipment, and infant
14 formula.

15 “(B) ANNUAL REPORT.—Beginning on the
16 date that is 1 year after the submission of the
17 report required under subparagraph (A), the
18 Director shall submit an annual report that de-
19 scribes the activities of the Center during the
20 previous year to the congressional committees
21 listed in subparagraph (A).

22 “(c) TRAINING AND TECHNICAL ASSISTANCE.—

23 “(1) EVALUATION.—Not later than 180 days
24 after the date of the enactment of the Combating
25 Organized Retail Crime Act of 2022, the Secretary

1 of Homeland Security and the Attorney General
2 shall conduct an evaluation of existing Federal pro-
3 grams that provide grants, training, and technical
4 support to State, local, and Tribal law enforcement
5 to assist in countering organized retail crime.

6 “(2) EVALUATION SCOPE.—The evaluation re-
7 quired under paragraph (1) shall evaluate, at a min-
8 imum—

9 “(A) the Homeland Security Grant Pro-
10 gram at the Federal Emergency Management
11 Agency;

12 “(B) grant programs at the Office of Jus-
13 tice Programs within the Department of Jus-
14 tice; and

15 “(C) relevant training programs at the
16 Federal Law Enforcement Training Center.

17 “(3) REPORT.—Not later than 45 days after
18 the completion of the evaluation required under
19 paragraph (1), the Secretary of Homeland Security
20 and the Attorney General shall jointly submit a re-
21 port to the congressional committees listed in sub-
22 section (b)(5)(A)(i) that—

23 “(A) describes the results of such evalua-
24 tion; and

1 “(B) includes recommendations on ways to
2 expand grants, training, and technical assist-
3 ance for combating organized retail crime.

4 “(4) ENHANCING OR MODIFYING TRAINING AND
5 TECHNICAL ASSISTANCE.—Not later than 45 days
6 after submitting the report required in paragraph
7 (3), the Secretary of Homeland Security and the At-
8 torney General shall jointly issue formal guidance to
9 relevant agencies and offices within the Department
10 of Homeland Security and the Department of Jus-
11 tice for modifying or expanding, as appropriate, the
12 prioritization of training and technical assistance de-
13 signed to counter organized retail crime.”.

14 (b) CLERICAL AMENDMENT.—The table of contents
15 for the Trade Facilitation and Trade Enforcement Act of
16 2015 (Public Law 107–296) is amended by inserting after
17 the item relating to section 305 the following:

“Sec. 305A. Organized Retail Crime Coordination Center.”.

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