

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 987
Second Edition Engrossed 5/11/95

Short Title: Criminal Enterprises.

(Public)

Sponsors: Senator Rand.

Referred to: Judiciary II/Election Laws

May 4, 1995

A BILL TO BE ENTITLED

1
2 AN ACT TO CREATE THE FELONY OFFENSE OF CONTINUING CRIMINAL
3 ENTERPRISE WITH REGARD TO CRIMINAL OFFENSES THAT ARE NOT
4 DRUG OFFENSES, AND TO PROVIDE THAT FAILURE OF AN ITINERANT
5 MERCHANT TO KEEP A RECEIPT OR INVOICE WITH CERTAIN
6 INFORMATION INDICATING THE SOURCE OF THE MERCHANT'S
7 PRODUCTS AND TO SHOW THE RECEIPT OR INVOICE TO A LAW
8 ENFORCEMENT OFFICER UPON REQUEST IS PRIMA FACIE EVIDENCE
9 THAT THE PRODUCTS ARE STOLEN.

10 The General Assembly of North Carolina enacts:

11 Section 1. Chapter 14 of the General Statutes is amended by adding a new
12 Article to read:

13 **"ARTICLE 2C.**

14 **"CONTINUING CRIMINAL ENTERPRISE.**

15 **"§ 14-7.20. Continuing criminal enterprise.**

16 (a) Any person who engages in a continuing criminal enterprise shall be punished
17 as a Class H felon and in addition shall be subject to the forfeiture prescribed in
18 subsection (b) of this section.

1 (b) Any person who is convicted under subsection (a) of this section of engaging
2 in a continuing criminal enterprise shall forfeit to the State of North Carolina:

3 (1) The profits obtained by the person in the enterprise, and

4 (2) Any of the person's interest in, claim against, or property or contractual
5 rights of any kind affording a source of influence over, such enterprise.

6 (c) For purposes of this section, a person is engaged in a continuing criminal
7 enterprise if:

8 (1) The person violates any provision of this Chapter, the punishment of
9 which is a felony; and

10 (2) The violation is a part of a continuing series of violations of this
11 Chapter:

12 a. Which are undertaken by the person in concert with five or more
13 other persons with respect to whom the person occupies a
14 position of organizer, a supervisory position, or any other
15 position of management; and

16 b. From which the person obtains substantial income or resources."

17 Sec 2. G.S. 105-53(i1) reads as rewritten:

18 "(i1) Records of Source of New Merchandise. – Each peddler, itinerant merchant,
19 and specialty market vendor shall keep a written record of the source of new merchandise
20 the merchant offers for sale. The record ~~may~~ must be a receipt or an invoice from the
21 person who sold the merchandise to the ~~merchant or any other documentation that establishes~~
22 ~~the source of the merchandise.~~ merchant. The invoice or receipt must specifically identify
23 the product being sold by product name, size, expiration date, if applicable, and quantity
24 purchased and must contain the complete business name, business description, and retail
25 sales and use tax registration number, if any, of the seller. If the seller was an individual,
26 the receipt or invoice must contain the seller's drivers license number, its state of issuance
27 and expiration date, and the seller's date of birth. The merchant must verify this
28 information by comparing the seller's drivers license to the invoice or receipt and signing
29 the invoice or receipt.

30 The merchant shall keep the record with the new merchandise being offered for sale
31 and shall maintain the record for a period of three years after the merchandise is sold.
32 Upon the request of a law enforcement agent, the merchant shall produce the record of
33 the source of new merchandise the merchant offers for sale. If the merchant fails – A
34 merchant's failure to produce the requested record and at the time of request by a law
35 enforcement agent ~~has probable cause to believe the merchant's possession of the merchandise~~
36 is unlawful, is prima facie evidence of possession of stolen property; in such a case the
37 agent may take the merchandise into custody as evidence. Merchandise impounded under
38 this subsection must be disposed of in accordance with G.S. 15-11.1."

39 Sec. 3. This act becomes effective December 1, 1995, and applies to offenses
40 committed on or after that date. Section 3 of this act also applies only to merchandise
41 acquired on or after that date.