

Date of Hearing: March 8, 2022  
Counsel: Andrew Ironside

ASSEMBLY COMMITTEE ON PUBLIC SAFETY  
Reginald Byron Jones-Sawyer, Sr., Chair

AB 1700 (Maienschein) – As Introduced January 25, 2022

**SUMMARY:** Requires the Attorney General’s website to contain a feature for the reporting of suspected stolen goods for sale on online marketplaces. Specifically, **this bill:**

- 1) Requires the Attorney General to establish an online marketplace suspected stolen goods reporting location on its website so people can report items found online that they suspect have been stolen.
- 2) Defines “online marketplace” as a platform accessible via internet or application that hosts one or more third-party sellers and through which third-party sellers can buy or sell consumer products in California.
- 3) Defines “third-party seller” as an individual or business entity who sells, offers to sell, or contracts to sell a product in California through an online marketplace.
- 4) Requires the Attorney General to report items reported on the website to local law enforcement agencies and regional property crimes tasks forces.
- 5) Requires online marketplaces to display a link to the Attorney General’s online reporting system on their platforms.
- 6) Requires the link to be clearly, conspicuously, and reasonably designed to be seen by all users of the platform.

**EXISTING LAW:**

- 1) Requires the Department of the California Highway Patrol (CHP), in coordination with the Department of Justice (DOJ), to convene a regional property crimes task force to assist local law enforcement in counties identified by CHP as having elevated levels of property crime. (Pen. Code, § 13899.)
- 2) Tasks the regional property crimes task force with providing local law enforcement with logistical support and other law enforcement resources, including, but not limited to, personnel and equipment, as determined to be appropriate by the CHP Commissioner in consultation with taskforce members. (Pen. Code, § 13899.)
- 3) Divides theft into petty theft and grand theft. (Pen. Code, § 486.)

- 4) Defines grand theft as when the money, labor, or real or personal property taken is of a value exceeding \$950 dollars, except as specified. (Pen. Code, § 487.)
- 5) Defines petty theft as obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed \$950 and makes it punishable as a misdemeanor, except in the case where a person has a prior super strike or registrable sex conviction and a prior theft conviction, as specified. (Pen. Code, § 490.2, subd. (a).)
- 6) Provides that notwithstanding any provision of law defining grand theft, obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed \$950 shall be considered petty theft and shall be punished as a misdemeanor, except where a person has a prior “super strike,” or a registerable sex conviction, as specified, in which case the offense is punished as a felony. (Pen. Code, § 490.2, subd. (a).)
- 7) Defines “shoplifting” as entering a commercial establishment with intent to commit larceny while that establishment is open during regular business hours, where the value of the property taken or intended to be taken does not exceed \$950 dollars. (Pen. Code, § 459.5, subd. (a).)
- 8) Provides that a person who enters specified buildings, including a vehicle, railroad car, or locked or sealed cargo container, with intent to commit grand or petty larceny, or any felony, is guilty of a burglary. (Pen. Code, § 459.)
- 9) Provides that receiving stolen property where the value of the property is \$950 or less is a misdemeanor, except where a person has a prior “super strike” or registerable sex conviction, in which case the offense is punished as a felony. (Pen. Code, § 496, subd. (a).)
- 10) Establishes that a person who commits any of the following acts is guilty of organized retail theft:
  - a) Acts in concert with one or more persons to steal merchandise from one or more merchant’s premises or online marketplace with the intent to sell, exchange, or return the merchandise for value.
  - b) Acts in concert with two or more persons to receive, purchase, or possess merchandise knowing or believing it to have been stolen.
  - c) Acts as an agent of another individual or group of individuals to steal merchandise from one or more merchant’s premises or online marketplaces as part of an organized plan to commit theft.
  - d) Recruits, coordinates, organizes, supervises, directs, manages, or finances another to undertake any of the acts described, or any other statute defining theft of merchandise. (Pen. Code, § 490.4, subd. (a)(1)-(4).)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Author's Statement:** According to the author, “Package and retail theft is on the rise. We must be creative in our solutions to combat this problem. Thieves are seizing the opportunity to resell stolen goods on loosely regulated online marketplaces. Enabling users of these platforms to easily report items they suspect of being stole will aid law enforcement in combatting package and retail theft and provide a disincentive for thieves to sell stolen goods on these platforms.”
- 2) **The California Highway Patrol’s Online Reporting System:** Under current law, CHP must coordinate with the DOJ to organize regional property crimes taskforces to help local law enforcement combat property crime.<sup>1</sup> As part of its Organized Retail Theft Program, CHP developed an online reporting system for victims of organized retail crime. It is available at <https://www.chp.ca.gov/notify-chp/organized-retail-theft-program>. But CHP’s reporting system does not provide a mechanism for people to report goods found online that they suspect have been stolen. This bill would require the Attorney General to establish such a forum to assist local law enforcement and regional property crime taskforces to recover stolen goods.
- 3) **Governor’s Proposed FY 2022-2023 Budget.** The Governor’s proposed budget provides \$132 million in FY 2022-2023 to support efforts to stem organized retail theft and other crimes. (Governor’s Proposed Budget Summary – 2022-2023 at p. 187.) Specifically, the Governor’s budget proposes \$6 million annually through 2024-2025 and \$500,000 annually thereafter for the DOJ to support regional organized retail theft taskforces and to prosecute theft cases spanning multiple jurisdictions. (*Id.* at p. 188.) This bill’s requirement that the Attorney General provide information about reports of suspected stolen goods to the online reporting system would facilitate DOJ’s support of regional taskforces and local law enforcement.
- 4) **Property Crime in California:** Property crime has increased in some parts of California. A Public Policy Institute of California analysis found that property crime rose an average of nearly 7% in Los Angeles, Oakland, San Diego, and San Francisco during the first 10 months of 2021. (Lofstrom & Martin, *After Decreases in 2020, Both Property Crime and Violent Crimes Are Up in 2021*, PPIC Blog (Dec. 14, 2021); but see Valine, *Modesto sees drop in violent and property crimes in 2021, in line with longer trend*, The Modesto Bee (Feb. 20, 2022) [Modesto Police Department received fewer reports of property crime in 2021 than any year since before 2015]; Hanson, *Marin data show decline in property crimes*, Marin Independent Journal (Feb. 7, 2022) [Marin County Sheriff’s Office reports 25% decrease in property crime in 2021, the “lowest annual total...in more than 20 years”].) This increase has coincided with extensive media coverage of organized retail crime in California’s largest cities.<sup>2</sup> The California Retailers’ Association (CRA) estimates that San Francisco and Oakland alone suffer \$3.6 billion per year in losses from organized retail crime, although some question CRA’s estimate. (Hurd, *String of Bay Area high-profile retail robberies brings calls for action*, The Mercury News (Nov. 22, 2021); but see Dean, *Retailers say*

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<sup>1</sup> The Governor proposed to increase the money allocated to CHP for this purpose. (Governor’s Proposed Budget Summary – 2022-2023 at p. 187.)

<sup>2</sup> See, e.g., Hayes & Woodyard, *The ‘weakest link in the supply chain’: Thieves looting LA trains like the Wild West*, USA Today, (Jan. 22, 2022); Hernandez, *80 people stormed a California Nordstrom store and stole merchandise*, NPR (Nov. 22, 2021); Curry, *Video shows decimated San Francisco Louis Vuitton store after massive smash-and-grab robbery*, ABC7 (Nov. 19, 2021).

*thefts are at crisis level. The numbers say otherwise*, L.A. Times (Dec. 15, 2021) [CRA’s “back-of-the napkin calculation” based on a misreading of Retail Industry Leaders Association 2020 report on total retail crime, organized or otherwise].)

This bill proposes to assist law enforcement to recover stolen goods by establishing an online system for citizens to report items they suspect have been illegally obtained.

- 5) **Existing Policies for Reporting Suspected Stolen Goods on Online Marketplaces:** This bill proposes to aid law enforcement and regional property crime taskforce efforts to investigate property crimes where stolen goods end up on online marketplaces. Many online marketplaces already instruct users to report suspected stolen goods to law enforcement. Facebook Marketplace, for example, recommends both reporting suspected stolen goods to Facebook and to “[c]ontact your local law enforcement to file a police report.” Facebook, Help Center, What should I do if I see a stolen item on Facebook Marketplace? <<https://www.facebook.com/help/312500235963976>> [last visited Mar. 2, 2022].) Ebay suggests, “If you...have reason to believe you have discovered stolen goods, we strongly encourage you to contact your local police to report the incident” (Ebay, Security Center, Law Enforcement <[https://pages.ebay.com/securitycenter/law\\_enforcement\\_customers.html](https://pages.ebay.com/securitycenter/law_enforcement_customers.html)> [last visited Mar. 2, 2022]; see also, How to block or report someone, OfferUp <<https://help.offerup.com/hc/en-us/articles/360032336271>> [last visited Mar. 2, 2022] [“If you have encountered illegal activity or a crime, we strongly recommend contacting local authorities. The police will need relevant details from you, such as the profile of the individual you were in contact with on [this platform].”].) However, such instructions can be difficult to find, and they often do not provide links directing users to reporting systems.

This bill seeks to make reporting stolen goods easier for users by requiring online marketplaces to clearly and conspicuously display on their platforms a link to the Attorney General’s reporting system.

- 6) **INFORM Consumers Act:** The federal government is also considering measures to prevent stolen goods from being sold on online marketplaces. Last year, Sen. Dick Durban (D-IL) introduced the INFORM Consumers Act, which would require online marketplaces, among other things, to provide “a reporting mechanism that allows for electronic and telephonic reporting of suspicious marketplace activity to the online marketplace.” (Sen. No. 936, 117th Congress, 1st Sess., § 2(b)(3)(A) (2021).) It would also require online marketplaces to place on their platforms “a message encouraging consumers seeking goods for purchase to report suspicious marketplace activity to the online marketplace.” (Sen. No. 936, 117th Congress, 1st Sess., § 2(b)(3)(B) (2021).) However, unlike this bill, the INFORM Consumers Act would not require online marketplaces to provide links to law enforcement reporting systems where consumers can report suspected stolen goods. As such, the INFORM Consumers Act and this bill are not duplicative.
- 7) **Argument in Support:** According to *Prosecutors Alliance of California*, “As prosecutors, we believe it is imperative to address the drivers of organized retail theft, including the ease with which stolen goods may be anonymously sold through online marketplaces. Through online accounts with little associated personal information that is rarely verified, stolen goods can be sold to unsuspecting consumers. It is estimated that more than \$500 billion in stolen items are sold through online marketplaces worldwide, annually.

“AB 1700 will help address this problem by providing an accessible platform for the public to report suspected stolen goods that are offered for sale through an online marketplace. This information will facilitate effective law enforcement investigation of stolen goods.”

- 8) **Argument in Opposition:** According to *TechNet*, “Organized retail crime is a serious issue and one that our companies are working diligently alongside law enforcement and other stakeholders to address. Companies use sophisticated software and tools to detect illicit or suspicious goods before most users can offer a good for sale and report it directly to law enforcement partners. We also have been involved in national conversations to tackle this problem and in December our companies engaged with the Attorney General, retailers, and law enforcement to develop a unified strategy to combat organized retail crime.

“AB 1700 is duplicative as most online marketplaces already provide robust reporting mechanisms for fraud and suspected stolen goods. Our marketplace companies also partner with the Attorney General and local law enforcement agencies to report crimes and suspicious activity on their platforms. By compiling reports from their own reporting mechanisms, companies can efficiently take action, compile pertinent information, and refer it to the proper law enforcement authorities. AB 1700 would require online marketplaces to post a link to a separate reporting mechanism that would undercut those efforts by redirecting user reports and possibly duplicating that information, without any guarantee the appropriate follow-up for the report will be conducted.”

9) **Related Legislation:**

- a) AB 1603 (Salas), would reduce the threshold amount for petty theft and shoplifting from \$950 to \$400, which would become effective only after approval by California voters. AB1603 is currently pending in this committee.
- b) AB 1613 (Irwin), would establish the jurisdiction of a criminal action for theft, organized retail theft, or receipt of stolen property, as including the county where the offense occurred, where the merchandise was recovered, or where any act was done by an accessory to the crime. AB 1613 is currently pending in this committee.
- c) AB 1653 (Patterson), would specify theft of vehicle parts and accessories as a property crime for consideration by the regional property crimes task force. AB 1653 is currently pending in this committee.
- d) AB 1698 (Maienschein), would establish the crime of organized package theft, of which a person would be guilty if they conspired with one or more persons to steal, receive, purchase, or possess a package left for delivery at a residence or other building with the intent to sell or return the contents of the package for profit. AB 1698 is currently pending in this committee.
- e) AB 1699 (Maienschein), would count as a point against a driver’s record a conviction of organized retail theft or the theft of a package from a residence that involved the use of a vehicle in the commission of the crime. This bill is currently pending in the Assembly Committee on Transportation.

**10) Prior Legislation:**

- a) AB 331 (Jones-Sawyer), Chapter 113, Statutes of 2021, extended until January 1, 2026 the sunset provision for the requirement that CHP, in coordination with DOJ, convene a regional property crimes task force to assist local law enforcement in counties identified as having elevated property crime.
- b) AB 1065 (Jones-Sawyer), Chapter 803, Statutes of 2018, established the crime of organized retail theft and required CHP to convene a regional property crime taskforce to assist local law enforcement in counties with elevated rates of property crime.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Prosecutors Alliance of California

**Opposition**

Chamber of Progress  
TechNet

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