



National Retail Federation[®]

The Voice of Retail Worldwide

2010

Organized Retail Crime Survey



About the Survey

NRF's Organized Retail Crime survey is distributed each spring to senior loss prevention executives nationwide. This year's survey features responses from 124 executives representing department/large box stores, discount, drug, grocery, restaurant and specialty retailers. The 2010 Organized Retail Crime Survey is NRF's sixth annual survey and was conducted from April 20 – May 18, 2010.

About the National Retail Federation

As the world's largest retail trade association and the voice of retail worldwide, the National Retail Federation's global membership includes retailers of all sizes, formats and channels of distribution as well as chain restaurants and industry partners from the U.S. and more than 45 countries abroad. In the U.S., NRF represents the breadth and diversity of an industry with more than 1.6 million American companies that employ nearly 25 million workers and generated 2009 sales of \$2.3 trillion. www.nrf.com

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2010 Organized Retail Crime Survey

Purpose

The purpose of this survey is to understand the impact of organized retail crime on retailers across the country. By measuring trends and operational methods of criminal enterprises, retailers will be in a better position to respond to this industry-wide issue, which has significant repercussions on consumers, brands and local economies.

Introduction: Organized Retail Crime

Organized retail crime (ORC) refers to groups, gangs and sometimes individuals who are engaged in illegally obtaining retail merchandise through both theft and fraud in substantial quantities as part of a criminal enterprise. These crime rings generally consist of “boosters” - who methodically steal merchandise from retail stores - and fence operators who convert the product to cash or drugs as part of the criminal enterprise. Sophisticated criminals have even found ways to switch UPC bar codes on merchandise so they ring up differently at checkout, commonly called “ticket switching.” Others use stolen or cloned credit cards to obtain merchandise or produce fictitious receipts to return products back to retail stores.

Precise measurements of the true scope of this problem are difficult to determine given the inherently secretive nature of these criminal operators. According to Congressional testimony and industry experts, ORC losses total an estimated \$15-30 billion annually.

In many instances, organized retail crime groups target several retailers in one day moving from state to state stealing and reselling merchandise. These groups often steal thousands of dollars worth of merchandise at a time with the intent to resell it for profit, buy drugs or fund terrorist/illicit activities. As displayed in Figure 1, the locations where criminals resell their stolen merchandise are referred to as fence locations, which can include unsuspecting small business owners, pawn shops, swap meets, flea markets and street vendors. In recent years, crime rings have swarmed the internet with intentions to unload their stolen goods on third party auction sites and marketplaces. This practice is referred to as e-Fencing.

This type of criminal activity can put consumers' health and safety at risk. For example, consumers are potentially at risk when professional shoplifting rings steal consumable products, such as over-the-counter medications and infant formula. Pilfered products may not be kept under ideal or required storage conditions which can threaten the product's integrity. And often times these organized criminals will repackage and re-label stolen products to falsely extend the product's expiration date or to disguise the fact that the merchandise has been stolen.

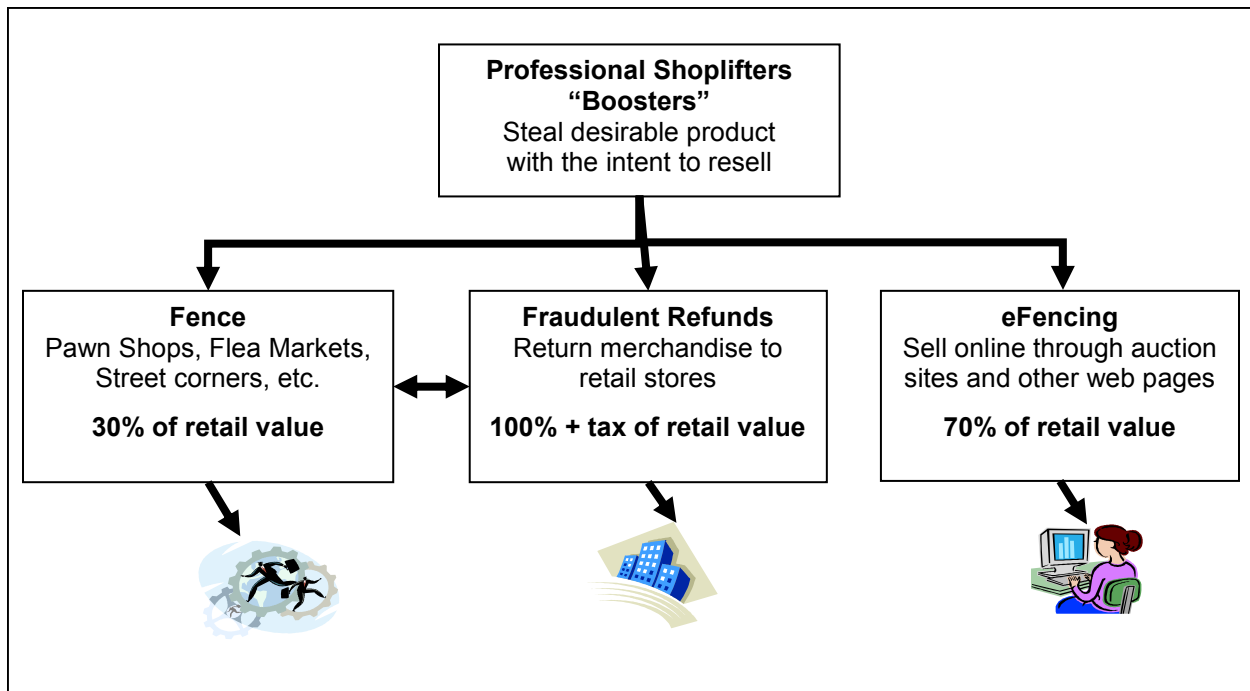


Figure 1 – How Organized Retail Crime Works

ORC groups and sometimes individuals travel and methodically steal merchandise from a number of stores over a short period of time. The stolen merchandise is then typically liquidated through three main channels:

1. Traditional “fencing” operations, such as street corners, flea markets and pawnshops. In larger cases, merchandise also may be fed back through the supply chain by re-packagers and illegitimate wholesalers who move the products into the distribution system, rerouting the items to unsuspecting retailers and consumers.
2. Returned to the store for a refund, sometimes using fake receipts, to obtain cash or store credit. In these cases, suspects receive full value of the merchandise plus sales tax.
3. Online marketplaces, such as websites and online auction sites, providing a national or even international platform to liquidate goods.

The most popular items targeted by these groups are goods in high demand commanding up to a near-retail resale price, such as designer clothing, gift cards, over-the-counter medicines, electronics, batteries and infant formula.

Industry partnerships with law enforcement agencies and traditional retail competitors demonstrate the severity of the issue for retailers of all shapes and size. Organized retail crime gangs can wreak havoc on a company's entire operating system as well as potentially causing serious harm to store employees and shoppers should a thief get violent.

Retailers See Slight Decreases in ORC Activity

According to NRF's sixth annual Organized Retail Crime survey, 89.5 percent of retailers polled say their company has been a victim of organized retail crime in the past 12 months, down from the 92.2 percent last year. The decrease in organized criminal activity is encouraging news for retailers, but understandable given the economic U.S. economic downturn last year and rebound this year. (See Figure 2)

Economic improvement is not the only reason for the decline in activity, as several factors can be attributed to this decrease. One main reason is that retailers have pushed awareness of the issue from loss prevention staff and company executives to every associate at the store level. Additionally, industry partnerships are creating better and

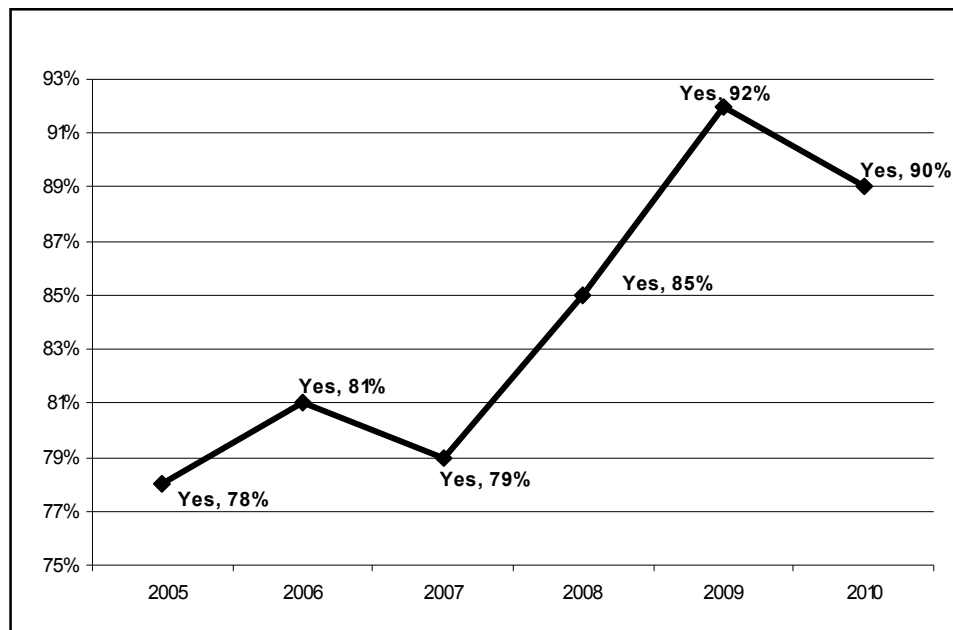


Figure 2 - Has your company been a victim of organized retail crime in the past 12 months?

more sophisticated information-sharing networks working towards a unified goal of stopping criminals.

When asked if they have seen an increase in organized retail crime activity during the past 12 months, over half (58.9%) of retailers report they've seen increases in activity, down from the nearly three-quarters (73.0%) who responded to last year's survey. (See Figure 3)

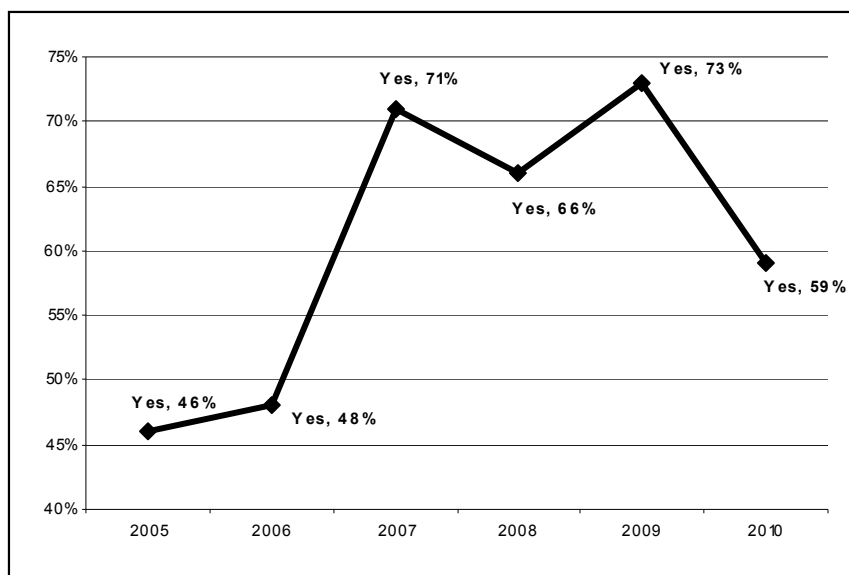


Figure 3 - Have you seen an increase in organized retail crime activity in the past 12 months?

Regarding their knowledge of organized retail crime activity throughout the U.S., NRF asked retailers what they thought about the pattern of criminal activity in general over the last three years. The largest group of retailers (26.8%) replied that they believed ORC activity had increased by more than one-quarter, which is close to last year's 27.9 percent. More retailers this year (17.1% vs. 10.8% last year) feel like ORC activity in general has stayed the same.

Even with uncertainties about the economy still lingering, nearly half (48.4%) of respondents say they are allocating additional resources toward fighting organized retail crime. Some retailers surveyed spend upwards of \$1 million on personnel every year to address the issue, while others are choosing to invest in technologies that have helped curb the problem.

When asked how organized retail crime ranks as a threat to their company, nearly one-quarter (23.4%) gave ORC a "four" or "five" rating out of five, identifying the problem as a "severe" or "significant" threat to their company. On average, retailers rated organized retail crime as 2.67, which is slightly down from last year's 2.87 rating. (See Figure 4)

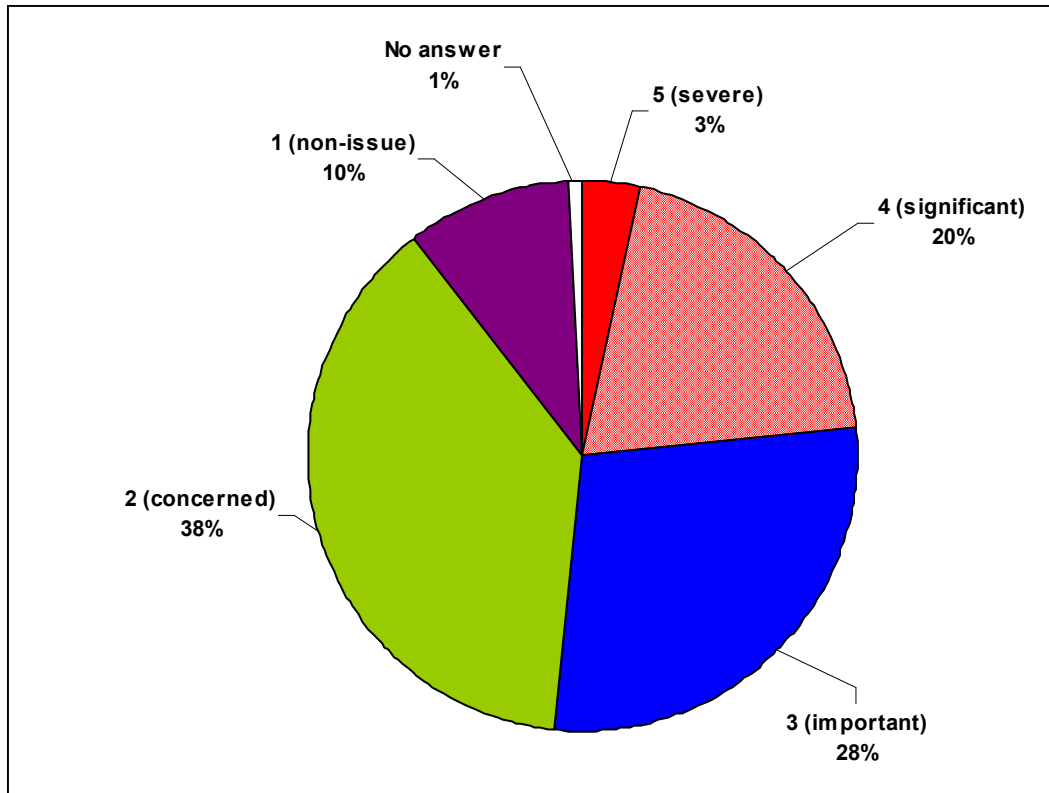


Figure 4 - On a scale of one to five, with five being severe, where would you rank ORC as a threat to your company?

Organized Retail Crime: Physical and e-Fencing Components

Retailers' level of awareness regarding the problems that organized retail crime creates for their business has never been higher. With reports of violent, brazen and aggressive criminal behavior increasing each year, retailers are on full alert these days.

Although a bittersweet victory, retailers this year say they have recovered more stolen merchandise from physical and e-Fencing locations. According to the survey, 62.5 percent of retailers say they have found stolen merchandise or gift cards at physical fence locations and 66.1 percent through e-Fencing activities (See Figures 5 and 6). This is up from last year, when 60.5 percent of respondents reported recovering merchandise from physical locations and 60.0 percent from e-Fencing locations.

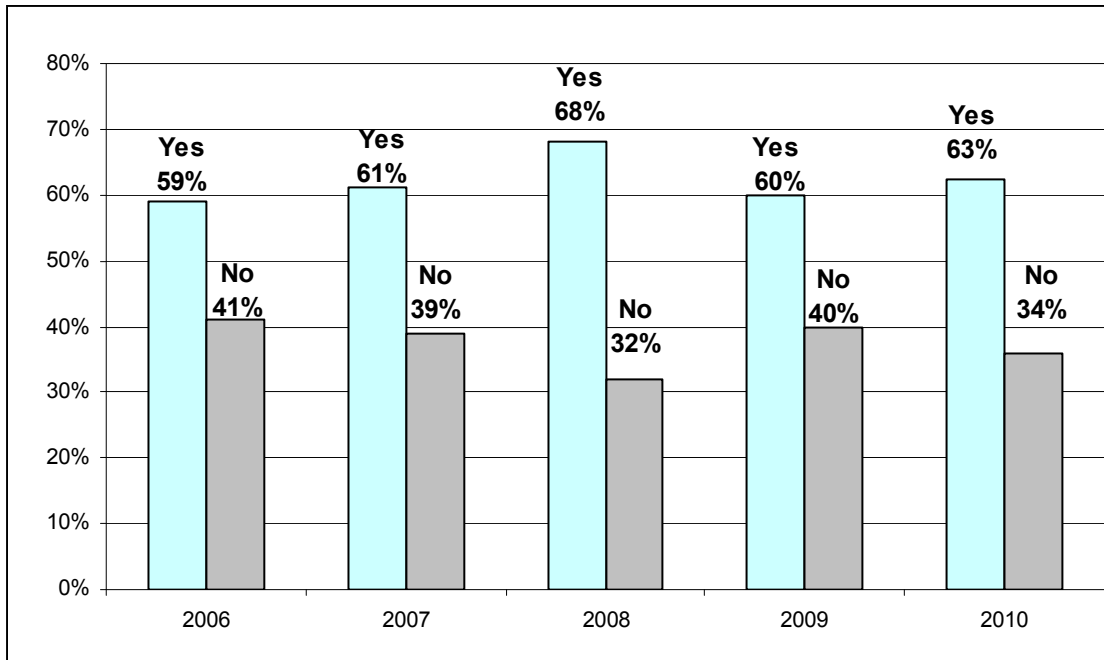


Figure 5 - Have you identified or recovered stolen merchandise and/or gift cards from a fence location?

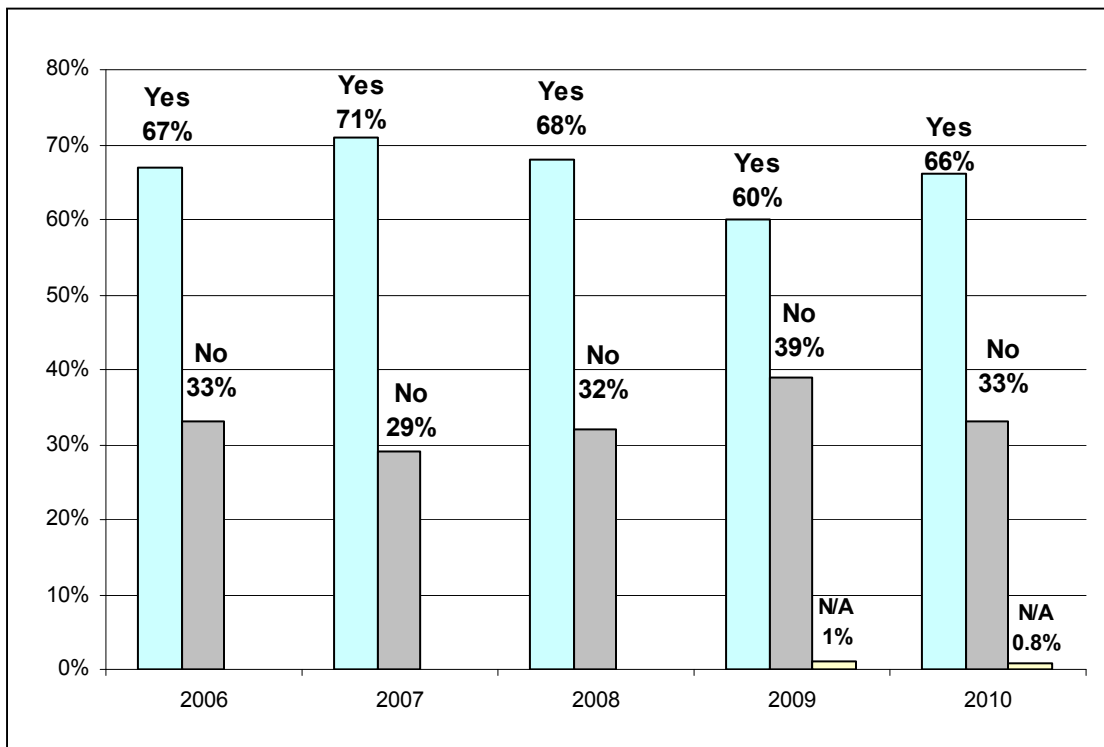


Figure 6 - Have you identified or recovered stolen merchandise and/or gift cards that were being e-fenced?

An increase in identifying or recovering stolen merchandise could easily be the result of retailers' continued efforts and their work with law enforcement agencies to thwart the efforts of professional crime rings.

As a part of their scheme, thieves sell "new in box" or "new with tags" merchandise and gift cards online and in pawn shops. This merchandise has never been opened or unwrapped and can provide more peace of mind to a customer buying from an unknown third party. According to the survey, more than one-quarter (26.0%) of retailers believe over half of "new in box" merchandise sold through online auction sites is stolen or fraudulently obtained.

While these acts may initially appear harmless, many retailers in this survey report an increase in violent behavior among criminals, which puts both employees and shoppers at risk. When asked, "Within the past year, what trends in organized retail crime have you noticed," answers included:

- *less fear of getting caught*
- *smash and grab activity significantly increased*
- *criminals are getting more violent, more bold*
- *steady increase in activity*

Many retailers also noted the economy still has a large part to do with the criminal activity that occurs in their stores.

Even with decreased organized criminal activity, retailers are much more tuned into the potential threat organized retail crime poses on their business. Half of those surveyed (50.0%) say that top management in their company understands the complexity and severity of ORC. Additionally, retailers believe law enforcement's understanding of the problem is also on the rise, with 39.5 percent of retailers noting that law enforcement understands the complexity and severity of organized retail crime, up from the 37.7 percent who said so last year.

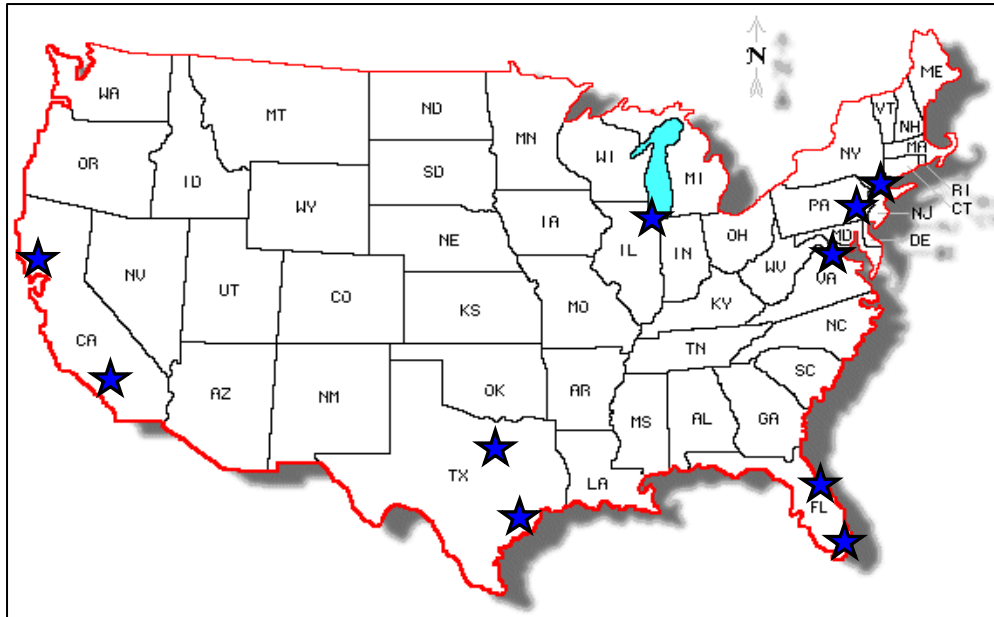


Figure 7 – Top Cities Affected by ORC in the U.S

ORC Gangs Target Major Metropolitan Areas throughout the Country

For the first time, NRF asked retail executives to list cities where organized retail crime affects their stores and/or distribution centers most. As Figure 8 shows, the top cities in alphabetical order include:

- Baltimore, MD/Washington, DC/Northern VA
- Chicago, IL
- Dallas, TX
- Houston, TX
- Los Angeles, CA
- Miami/Ft. Lauderdale, FL
- New York, NY/Northern NJ
- Philadelphia, PA
- San Francisco, CA
- Tampa/Orlando, FL

Forming Strategic Partnerships to Fight ORC

It's been a big year for NRF's loss prevention team. NRF has been working with retailers, law enforcement agencies, retail trade associations, state retail associations and other groups to track and prevent organized retail crime. In March 2010, NRF announced it would partner with the world's largest online marketplace, eBay, to tackle organized retail crime. This unique partnership has support from the Federal Bureau of Investigation and retailers from around the country, and is aimed at identifying and stopping criminals who resell stolen goods online.

The partnership will bring together a core group of NRF retail members and representatives of eBay on a regular basis to discuss organized retail crime, brainstorm practices to prevent it, and take steps to eradicate the activity.

Another important component of the partnership includes working together on legislation to enhance federal law enforcement resources to combat organized retail crime and punish major offenders through enhanced criminal penalties. The working group will also identify ways to leverage new technology, including NRF's LERPnet and eBay's PROACT programs, which partners with retailers offensively against crime and theft.

During the same time frame in March 2010, the U.S. Immigration and Customs Enforcement (ICE) Office of Investigations Organized Retail Crime Pilot Program was extended for an additional 12 months and includes an expansion to the ICE National Cyber Crimes Center (C3). From inception in July 2009 through March 2010, the ICE Organized Retail Crime Pilot Program has resulted in the initiation of six investigations, six criminal arrests, four criminal indictments, 30 seizures, two search warrants, and one administrative arrest. Additionally, the detection of one illicit group resulted in the interception of stolen computers and high-tech equipment totaling close to \$250,000 in value. Retailers expect to see continued success with this partnership throughout the year.

Other significant assets for NRF's retail community are two committees dedicated to educating, training and working on ORC. The NRF Investigator's Network, which represents more than 1300 members in seven regions throughout the country, allows loss prevention and law enforcement personnel to meet regionally, track local offenders and work collaboratively on major retail crimes like ORC, burglary and robbery. Additionally, NRF's Joint Organized Retail Crime Task Force, comprised of the nation's top ORC investigators, works to educate the industry and law enforcement on patterns and trends.

LERPnet Connects Law Enforcement Nationwide to Retailers

As retailers continue to use sophisticated tracking and information-sharing tools to communicate retail crime incidents, law enforcement now has direct access to LERPnet through the FBI's Law Enforcement Online portal (LEO.gov). This connection gives every single officer in the country access to the crimes that retailers track in LERPnet. Law enforcement can run queries and reports on incidents in the system occurring in their local jurisdiction. After the three-year anniversary of LERPnet earlier this year, plans are underway to enhance usability and offer better analytic and mapping tools of the system.

Additionally, the FBI's Criminal Investigations Division and Domestic Security Alliance Council have analysts track the data in LERPnet and are comparing it to crime trends throughout the nation.

Legislative Measures to Tackle Organized Retail Crime

In recent years, organized retail crime has drawn the attention of Congress. Congress first passed ORC-related legislation through the Department of Justice's Reauthorization Act, which allowed for enhanced training of federal law enforcement on ORC and allowed law enforcement to work with LERPnet.

H.R. 1173, the Organized Retail Crime Act of 2009

- defines ORC
- for the first time ever, makes ORC a federal crime
- establishes that the operation of auction sites could be considered "facilitation" of ORC unless the operator shows specific steps had been taken to ensure goods being sold were not fraudulently obtained or stolen
- requires online marketplaces to adopt reporting and tracking
- allows retailers to sue over the sale of stolen merchandise

H.R. 1166, the e-Fencing Enforcement Act of 2009

- requires online auction operators to retain information about high-volume sellers
- requires operators to provide the above information once a valid police report is filed

S.470, the Combating Organized Retail Crime Act of 2009

- enhances sentencing guidelines for those engaged in ORC activities
- requires online marketplaces to retain certain information about high-volume sellers
- requires physical and online marketplace operators to review the accounts of sellers engaged in possible criminal activity and file suspicious activity reports with the Attorney General
- requires physical and online marketplace operators to suspend the activities of sellers when there is clear and convincing evidence that they are selling illegally-obtained goods

H.R. 4011, the "Organized Retail Crime Prevention and Enforcement Act of 2009

- amends existing federal offenses of transportation and sale of stolen goods to encompass offenses linked to organized retail crime, subject to a lower offense threshold than in current law
- establishes task forces in six federal districts to combat organized retail crime, and authorize appropriations for them
- the legislation would not impose any new duties on online marketplaces or auction sites

Four bills designed to address ORC have been introduced in the 111th Congress. The members of Congress involved in the effort believe ORC and e-Fencing are serious issues deserving of a federal law enforcement solution due to their multi-jurisdictional nature and overall impact in interstate commerce.

Overall, the bills:

- define organized retail crime
- make it a federal crime, an unprecedented measure for retailers affected by serious property crimes
- enhance sentences for prosecuted offenders
- require online auction operators to collect information of high-volume sellers and provide information to appropriate retail/law enforcement contacts upon request.

The main components of each bill are detailed below, with full summary of the details in the Addendum.

While federal legislation is being pursued, over 20 states have passed and/or enacted ORC or ORC-related legislation. Most recently this May, Pennsylvania and Connecticut passed ORC bills into law. In addition to the legislative initiatives, there is also a grassroots campaign underway, similar to the NRF Investigator's Network, to engage retail loss prevention investigators and law enforcement throughout the state of Connecticut. *(As of June 8, 2010, both state's laws are pending a Governor's signature.)* Two other New England states, Massachusetts and New Hampshire, also have bills pending in their respective state legislatures.

States with ORC laws already in place or ORC-related legislation are highlighted in Figure 8 and include: Alabama, Arizona, Colorado, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Nevada, New Jersey, North Carolina, Ohio, Oregon, Texas, Utah, Virginia and Washington.

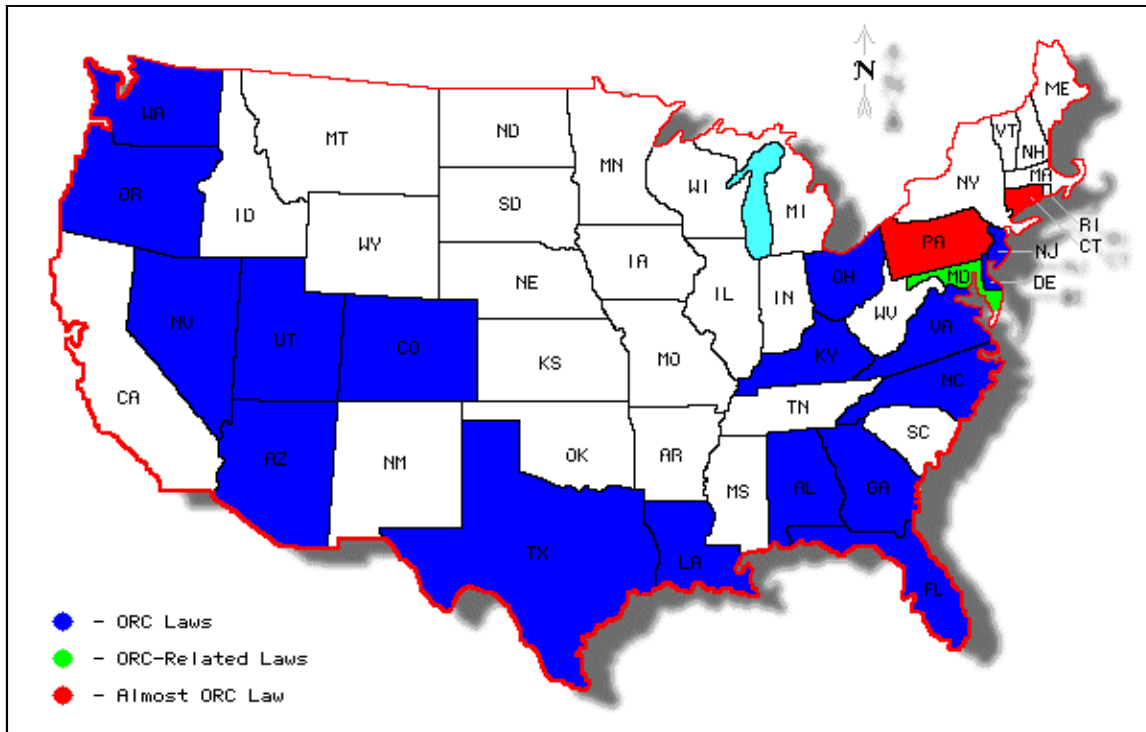


Figure 8 – Map of States with ORC/ORC-related Legislation

Conclusion

Organized retail crime costs retailers nationwide an estimated \$15-30 billion annually. That money could easily go to new inventory, more employees, remodeled store fronts, sales and promotions for their shoppers, new store locations and most importantly, lower prices for consumers. Instead, some retailers are forced to resort to taxing their merchandise to make up for what they lose to thoughtless, selfish and unethical criminals.

Organized Retail Crime is a serious priority for large and small retailers nationwide. Locking everything behind glass may reduce sales, dramatically impacting the revenue for businesses and tax revenues for states. Expenditures against retail theft have become part of construction budgets, merchandising budgets and information technology and staffing budgets. This is an enormously important and expensive effort for the retail industry.

Since 2005, NRF and its various committees have been on the forefront of educating retailers, law enforcement, legislators, the business community and consumers on the vast impact of organized retail crime. As evidenced by the top 10 metropolitan areas most affected by ORC, there is still work to be done. Only four of the top 10 metropolitan areas affected by ORC are located in states with active ORC/ORC-related legislation. While state legisla-

tors nationwide are working to close this gap, it's still a long haul for retailers.

As businesses across the country continue to grapple with an unstable economy and law enforcement resources are challenged by economic cutbacks, retailers are working harder to combat the growing problem of organized retail crime. The good news is that efforts to increase the industry's awareness, law enforcement involvement and strategic partnerships have made a positive difference on the level of ORC activity that retailers are experiencing.

Moving forward, a continued emphasis on training and awareness programs will help retail employees identify and understand the economic effect of ORC to their company, which may assist with the slightly declining trend. Additionally, by actively participating in shared databases like LERPnet, retailers will help facilitate information sharing with law enforcement on large, multi-jurisdictional crimes plaguing the industry.

Addendum

Full Details of Organized Retail Crime Federal Legislation

H.R. 1173, the Organized Retail Crime Act of 2009, was reintroduced by Representatives Brad Ellsworth, D-IN., and Jim Jordan, R-OH. The bill would define ORC and make it a federal crime for the first time. The bill would also establish that operation of auction sites could be considered “facilitation” of organized retail crime unless the operator could show specific steps had been taken to ensure goods being sold were not obtained by theft or fraud. It would also require site operators to cooperate with retailers and police, and allow retailers to sue over the sale of stolen merchandise.

H.R. 1166, the e-Fencing Enforcement Act of 2009, was reintroduced by Representative Bobby Scott, D-VA, Chairman of the House Judiciary Committee's Subcommittee on Crime, Terrorism and Homeland Security. The legislation would require online auction operators to retain information about high-volume sellers and provide that information to “a person with standing” once a valid police report is filed. The “person with standing” could be a retailer - if they filed a signed police report - or a law enforcement officer once police have received a valid report.

S.470, the Combating Organized Retail Crime Act of 2009, reintroduced by Senate Majority Whip and Judiciary Committee member Richard Durbin, D-IL. The bill would require enhanced sentencing guidelines for those engaged in ORC activities and would require online marketplaces to retain certain information about high-volume sellers. It would also require physical and online marketplace operators to review the accounts of sellers engaged in possible criminal activity and file suspicious activity reports with the Attorney General, as well as require physical and online marketplace operators to suspend the activities of sellers when there is clear and convincing evidence that they are selling illegally-obtained goods.

H.R. 4011, the “Organized Retail Crime Prevention and Enforcement Act of 2009, introduced by Representative Lamar Smith, R-TX, along with Representative Bob Goodlatte, R-VA. The legislation would amend the existing federal offenses of transportation and sale of stolen goods to encompass offenses linked to organized retail crime, subject to a lower offense threshold than in current law. It would also establish task forces in six federal districts to combat organized retail crime, and authorize appropriations for them. The legislation would not impose any new duties on online marketplaces or auction sites.



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