

## ALCOHOL INDUSTRY LEADERS JOIN RETAIL GROUPS IN ADDRESSING ORGANIZED RETAIL CRIME

### *WILL CONGRESS ACT?*



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By: Regulated Products Section Chair [Richard M. Blau](#)

In Portsmouth, Virginia, a man was recently arrested after stealing liquor from a retail store by stuffing numerous top-shelf bottles [in his pants](#) and waddling out without paying. Although video footage of the incident is comical, many other incidents of alcohol-related retail crime are far from funny.

On January 11, 2024, authorities [arrested](#) an armed man in Memphis, Tennessee, for allegedly robbing a delivery driver of nearly \$10,000 in liquor. The same night in Chicago, armed robbers [targeted](#) five other liquor stores – the police have yet to arrest any suspects. Over on the East Coast, a Cranston, Rhode Island, man was arrested after [stealing](#) a beer delivery truck parked outside a Providence liquor store. On the West Coast, a clerk [murdered](#) in a recent liquor store robbery in West Covina, California, left behind a wife and 12-year-old son.

According to the National Retail Federation, organized retail crime (ORC) is the large-scale theft of retail merchandise with the intent to resell the items for financial gain. ORC typically involves a criminal enterprise employing individuals who steal large quantities of merchandise from targeted stores and a

fencing operation that converts the stolen goods into cash. Stolen items are often sold through online auction sites, flea markets, and to other retailers.

In addition to targeting stores, ORC gangs engage in cargo theft activities. They also commit other frauds, such as using stolen or cloned credit cards to obtain merchandise, changing bar codes to pay lower prices, and returning stolen merchandise to accept cash or gift cards. ORC is distinct from ordinary shoplifting committed by individuals seeking goods for personal use.

“Shrinkage” is the measurement of losses a retailer calculates during a specific period, categorized across various means of retail loss. The average shrinkage rate in 2022 increased to 1.6%, up from 1.4% in 2021 and in line with shrink rates seen in 2020 and 2019, according to the latest [NRF National Retail Security Survey](#). When taken as a percentage of total retail sales, that represents \$112.1 billion in losses in 2022, up from \$93.9 billion in 2021.

At a recent meeting with the Board of Directors of the National Alcohol Beverage Control Association (NABCA), senior officials from the Distilled Spirits Council of the United States (DISCUS), the American Beverage Licensees (ABL), and Diageo North America discussed the growing concern of organized retail crime and its impact on alcohol beverage industry suppliers, wholesalers, retailers, and retail employees. ORC impacts the entire supply chain and provides support for organized crime and terrorist organizations.

Among the efforts to reduce ORC, Congress is considering draft legislation introduced in January 2023 that would expand federal enforcement of criminal offenses related to organized retail crime. **Senate Bill 140**, titled “[The Combating Organized Retail Crime Act of 2023](#),” would seek to crack down on ORC in three ways:

1. With respect to criminal offenses involving the transportation of stolen property across state lines and the sale or receipt of stolen goods, the bill broadens the scope of conduct that qualifies as offenses. Additionally, the bill makes the offenses predicate offenses (*i.e.*, underlying offenses) for prosecutions under the federal money laundering statute and authorizes the criminal forfeiture of any property representing or traceable to the gross proceeds obtained because of an offense or a conspiracy to commit an offense.
2. With respect to criminal offenses involving theft from an interstate or foreign shipment, the bill makes an offense an underlying offense for prosecution under the federal money laundering statute. It also authorizes the criminal forfeiture of any property representing or traceable to the gross proceeds obtained due to an offense or a conspiracy to commit an offense.

3. Finally, the bill establishes a center within the Department of Homeland Security — the **Organized Retail Crime Coordination Center** — to coordinate federal law enforcement activities related to organized retail crime.

U.S. Senator Chuck Grassley of Iowa introduced the Senate bill on January 30, 2023, and it has been referred to the U.S. Senate Judiciary Committee, which currently has the bi-partisan support of 12 co-sponsors. The U.S. House of Representatives' identical version of the bill is H.R. 895. It was introduced into the U.S. House on February 9, 2023, by Representative Ken Buck of Colorado and has been referred to the U.S. House Judiciary Committee, where it currently has the bi-partisan support of 105 co-sponsors. This legislation is supported by the NRF, the Retail Industry Leaders Association, the International Council of Shopping Centers, and the PASS Coalition (The Coalition to Protect America's Small Sellers).

***As 2024 progresses, retailers, wholesalers, and their suppliers should think, plan, and act on this serious, escalating issue.***

***Richard M. Blau*** leads the GrayRobinson national Alcohol Law Team, focusing on the laws that govern the production, importation, marketing, distribution, and sale of alcohol beverages throughout America. Richard and his colleagues focus on the rules, regulations, and business practices that govern the marketing, sale, and consumption of international importers and domestic producers, processors and regional distributors, and retailers. Richard has achieved numerous peer-related accolades for his legal work, including **Chambers and Partners** – Nationally ranked as "Band 1" for food and alcohol beverage law; **Best Lawyers® in America** – nationally listed for food and beverage law; and **Super Lawyers** – elected member.

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