

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.

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## 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

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## 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 redesignig-  
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”;

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 (e).

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 tigation, 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.”.

○