GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S 1 SENATE BILL 987 Short Title: Criminal Enterprises. (Public) Sponsors: Senator Rand. Referred to: Judiciary II/Election Laws May 4, 1995 A BILL TO BE ENTITLED AN ACT TO CREATE THE FELONY OFFENSE OF CONTINUING CRIMINAL ENTERPRISE WITH REGARD TO CRIMINAL OFFENSES THAT ARE NOT DRUG OFFENSES, TO CREATE THE FELONY STATUS OFFENSE OF HABITUAL THIEF, AND TO PROVIDE THAT FAILURE OF AN ITINERANT MERCHANT TO KEEP A RECEIPT OR INVOICE WITH CERTAIN INDICATING INFORMATION THE SOURCE OF THE MERCHANT'S PRODUCTS AND TO SHOW THE RECEIPT OR INVOICE TO A LAW ENFORCEMENT OFFICER UPON REQUEST IS PRIMA FACIE EVIDENCE THAT THE PRODUCTS ARE STOLEN. The General Assembly of North Carolina enacts: Section 1. Chapter 14 of the General Statutes is amended by adding a new Article to read: "ARTICLE 2C. "CONTINUING CRIMINAL ENTERPRISE. "§ 14-7.20. Continuing criminal enterprise. Any person who engages in a continuing criminal enterprise shall be punished as a Class H felon and in addition shall be subject to the forfeiture prescribed in subsection (b) of this section.

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1	<u>(b)</u>	Any person who is convicted under subsection (a) of this section of engaging
2	ın a conti	nuing 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	<u>(c)</u>	For purposes of this section, a person is engaged in a continuing criminal
7	enterprise	
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	, 1	Sec. 2. Chapter 14 of the General Statutes is amended by adding a new Article
18	to read:	HADEIGI E 16A
19		"ARTICLE 16A.
20	US 14 OC	"HABITUAL THIEF.
21		10. Habitual thief.
22	<u>(a)</u>	A person is declared to be an habitual thief if the person:
23		(1) Is convicted of a third or subsequent violation of any of the following
24 25		offenses within a period of three years:
		a. G.S. 14-72. (Larceny of property; receiving stolen goods or
26		possessing stolen goods.)
27		b. G.S. 14-72.1. (Concealment of merchandise in mercantile
28		establishments.)
29		c. G.S. 14-74. (Larceny by servants and other employees.)
30		d. G.S. 14-90. (Embezzlement of property received by virtue of
31		office or employment.)
32		e. G.S. 14-100. (Obtaining property by false pretenses.);
33		(2) The violations occurred on three separate occasions; and
34 25		(3) The value of the property unlawfully taken, received, or possessed for
34 35 36 37		each offense of which the defendant is convicted is fifty dollars (\$50.00)
30 27	(1-)	or more.
	(b)	A person convicted of a third or subsequent violation of any of the offenses
38		subsection (a) of this section shall be sentenced as a Class G felon. In
39 40		ing the prior record level, convictions used to establish a person's status as an
40 41	<u>naonual l</u>	See 2. G.S. 105.52(i1) reads as rowritten:
41 42	# /;1 \	Sec 3. G.S. 105-53(i1) reads as rewritten: Records of Source of Now Morehandise. Each moddler itingrant morehant.
42	"(i1)	Records of Source of New Merchandise. – Each peddler, itinerant merchant,

and specialty market vendor shall keep a written record of the source of new merchandise

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the merchant offers for sale. The record <u>may must</u> be a receipt or an invoice from the person who sold the merchandise to the <u>merchant or any other documentation that establishes</u> the source of the merchandise. <u>merchant</u>. The invoice or receipt must specifically identify the product being sold by product name, size, expiration date, if applicable, and quantity purchased and must contain the complete business name, business description, and retail sales and use tax registration number, if any, of the seller. If the seller was an individual, the receipt or invoice must contain the seller's drivers license number, its state of issuance and expiration date, and the seller's date of birth. The merchant must verify this information by comparing the seller's drivers license to the invoice or receipt and signing the invoice or receipt.

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

Sec. 4. This act becomes effective December 1, 1995, and applies to offenses committed on or after that date. Section 3 of this act also applies only to merchandise acquired on or after that date.