

HOUSE No. 4427

The Commonwealth of Massachusetts



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August 20, 2014

To the Honorable Senate and House of Representatives,

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of Massachusetts, I am returning to you for amendment House Bill No. 1474, “An Act To Improve Criminal Laws Relative to Organized Retail Theft”

This bill seeks to protect the public from the costs of criminal organized retail theft, while making the civil legal system fairer to innocent people. However, as drafted, Section 3 creates separate penalty schemes for first and second offenses of receipt of stolen property, such that second offenses will have to be brought before the superior court, with only a state prison alternative. I am recommending an amendment to the language that would allow prosecutors the discretion to bring the charge before the district court with a house of corrections option.

I, therefore recommend that House Bill No. 1474 be amended by striking out all text of Section 3 and inserting in place thereof the following new text:

SECTION 3. Said chapter 266 is hereby amended by striking out section 60, as appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

Section 60. Whoever buys, receives or aids in the concealment of stolen or embezzled property, knowing it to have been stolen or embezzled, or whoever with intent to defraud buys, receives or aids in the concealment of property, knowing it to have been obtained from a person by false pretense of carrying on a business in the ordinary course of trade or whoever obtains or

exerts control over property in the custody of any law enforcement agency, or any individual acting on behalf of a law enforcement agency, which is explicitly represented to such person by any law enforcement officer or any individual acting on behalf of a law enforcement agency as being stolen and who intends to deprive its rightful owner permanently of the use and enjoyment of said property shall be punished as follows: if the value of such property does not exceed \$250, for a first offense by imprisonment in a jail or house of correction for not more than 2 ½ years or by a fine of not more than \$1,000; if the value of such property does not exceed \$250, for a second or subsequent offense by imprisonment in the house of corrections for not more than 2 ½ years or by imprisonment in the state prison for not more than 5 years or by a fine of not more than \$5,000, or by both such fine and imprisonment; or if the value of such property exceeds \$250 by imprisonment in the house of corrections for not more than 2 ½ years or by imprisonment in the state prison for not more than 5 years or by a fine of not more than \$5,000 or by both such fine and imprisonment.

It shall not be a defense that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused as having been obtained through the commission of a theft offense.

Sincerely,

Deval L. Patrick,
Governor