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Committee Secretariat
Justice Committee
Parliament Buildings
Wellington

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Retail NZ submission on Sentencing (Reform) Amendment Bill

1. Retail NZ is a membership organisation that represents the views and interests of New Zealand's retail sector. We are the peak body representing retailers across Aotearoa, with our membership accounting for nearly 70% of all domestic retail turnover. New Zealand's retail sector comprises approximately 27,000 businesses and employs around 220,000 Kiwis. We have consulted our membership in the preparation of this submission.
2. Every day, retailers are dealing with threatening, violent or simply unpleasant members of the public who are trying to steal, assault staff, or damage their property. Organised crime groups stealing to order, drug addicts and youths looking for notoriety on social media are driving retail crime.
3. Retail NZ members tell us that crime is traumatic for them and their staff, whether they are working in a small store or in a big-box outlet.
4. We welcome the Government's commitment to tackling retail crime. Retail NZ is working closely with Retail NZ members, New Zealand Police and Government on a range of measures to combat retail crime, including the introduction of new technologies, more resourcing for police and increased protections for retail staff.
5. Retail NZ is supportive of the overall aim of this Bill, which aims to ensure offenders face tougher consequences and victims are prioritised, particularly in relation to retail crime.
6. However, we want some aspects of the Bill to be amended. In particular, offences against any retail worker must be treated as an aggravating factor at sentencing, not only sole charge workers or where a business is connected to a home.

Retail crime and its impacts

7. Retail crime presents an increasing health and safety risk to employees and customers and to the financial sustainability of retail businesses. The \$2.6 billion annual cost of retail crime flows through from retailers to customers to the New Zealand economy.
8. Crime puts both retail staff and the public at risk, as well as threatening the financial sustainability of retail businesses. Ultimately, retail crime results in higher costs and more security barriers for all customers and consumers.
9. The comprehensive Retail Crime Survey 2023¹ undertaken by Retail NZ found that 92% of retailers who responded to our survey had experienced some form of retail crime in the past 12 months. This was a significant increase on the previous survey in 2017; at that time 81% of retailers had experienced some form of crime over the past 12 months.

¹ <https://retail.kiwi/product/retail-crime-report-2023/>

10. Retail NZ members say that aggression, violence, and other retail crime has increased in recent years. Criminals are becoming increasingly organised and brazen, putting retail employees and customers at risk.
11. The consequences are serious risks to physical health, injuries and in the worst cases, death. There is also a major negative impact on the mental health and wellbeing of employees and business owners.
12. Retail is perceived as a more dangerous and less desirable place to work, leading to staff retention issues, and higher recruitment and training costs, along with increased costs of security personnel and loss prevention technology.
13. Areas affected by retail crime are perceived by customers as dangerous places to shop.
14. The impacts of retail crime are not limited to small stores. Foodstuffs North Island, the co-operative behind the North Island's New World, PAK'nSAVE and Four Square stores, reports record levels of retail crime. In the April to June 2024 quarter, Foodstuffs North Island stores reported 4710 incidents of retail crime, an increase of 63% on what stores reported for the May-July 2022 quarter. Woolworths New Zealand revealed in July 2024² that it had recorded a 9% increase of acts of violence and aggression in its stores, compared to the previous year. This included a 50% jump in physical assaults.

Drivers of retail crime

15. Retail NZ believes the increase in retail crime is being driven by:
 - a. organised crime, stealing to order
 - b. people stealing to fund their addiction
 - c. young people committing destructive acts to gain notoriety on social media.

This is supported by what is being stolen, with many offenders targeting premium cuts of meat, and health and beauty products. Both of these product categories are high value and can be on-sold.

16. Retail NZ members also cite:
 - a. the biggest problem is repeat offenders. The same people are responsible for one-third of all incidents of retail crime
 - b. inconsistent approaches taken by the different Police Districts mean a retailer in the Waikato receives a different Police response to a retailer in Counties Manukau
 - c. inadequate resourcing of Police to support retailers
 - d. a clogged court system with offenders re-offending before being tried for an earlier offence
 - e. inadequate deterrents for offenders
 - f. the high cost of living and socio-economic deprivation.
17. This is made worse by the offenders' perception of impunity, and a lack of understanding of the impacts of their behaviour on staff, customers and the retail businesses.

Solutions to reduce retail crime

18. Retail NZ has a number of projects underway to tackle retail crime. Our goal is to reduce retail crime, by working in partnership with our members, the New Zealand Police and other organisations with an interest in crime prevention; and for there to be real consequences for those involved in retail crime.
19. Retail NZ Chief Executive Carolyn Young is a member of the Ministerial Advisory Group on Retail Crime (MAG) and is committed to working with the Group for the best outcomes for retailers and their staff. It is expected that the MAG will provide evidence-backed suggestions and recommendations and will engage with retailers across the sector to fully understand the issues to be addressed.

² <https://www.woolworths.co.nz/info/news-and-media-releases/2024/woolworths-supports-continued-focus-on-combating-retail-crime>

20. Retail NZ has also been highly supportive of the Foodstuffs North Island's Facial Recognition Trial and the use of technology more generally, to benefit the wider retail sector. We look forward to seeing the use of technology increase across New Zealand.
21. The rise in retail crime means that all retailers are considering what actions they can take to keep their staff, customers and stores safe. On a positive note, our members cite the National Retail Investigation Support Unit does a great job and is highly valued by retailers.
22. More work is needed to support retailers in the fight against crime. As well as increased use of technology, Retail NZ is exploring the role of security guards and legislative updates to the Trespass Act 1980. We are also considering measures used internationally, such as the Workplace Protection Orders that are in place in Australia, and how they could be applied in New Zealand.

Discussion of key issues in Sentencing (Reform) Amendment Bill

23. The Sentencing (Reform) Amendment Bill's objective is to ensure criminals face tougher consequences and victims are prioritised.
24. Retail NZ has a particular interest in commenting on the following points in the Bill:
 - a. Proposals to give greater prominence to victims in sentencing decisions
 - b. Introduction of new aggravating factors to address concerns about:
 - i. crime against sole charge workers, and those whose home and business are connected
 - ii. adults exploiting children and young people by aiding or abetting them to offend
 - iii. offenders livestreaming or posting serious crime online which may encourage copycat offences.
25. Retail NZ supports the intent of giving victims prominence in sentencing decisions. While there is already a requirement in the Sentencing Act that the Courts take into account the impact of the offending on the victim, we support this being made more explicit.
26. Retail NZ does not support the proposal to include the victim working sole-charge or adjacent to a dwelling as an aggravating factor at sentencing.
27. This amendment does not go far enough. Almost every retail worker has been affected by crime and aggression, whether they are sole charge or not. On a daily basis, retailers of all sizes are dealing with threatening, violent or simply unpleasant customers, who are trying to steal or damage their property.
28. Crime is traumatic for those directly involved and their colleagues, whether they are working in a small store alongside one or two others, or in large supermarkets or big-box outlets.
29. It is difficult to see the justification in treating crime against one retail worker differently to another, simply depending on the size of their workplace.
30. Many small retail outlets have two or three staff members but this amendment would not apply to them, even though any serious offence may be exacerbated given there could be more than one victim.
31. Retail NZ has a similar view on the proposal to introduce an aggravating factor for those whose home and business are connected. Would this mean that an offence against a non-resident employee would be judged differently to an offence against a family member who lives adjacent to the business and works in the same store?
32. Health & Safety legislation requires all business owners and managers to take all practicable steps to mitigate risk in the workplace. As previously noted, we find it difficult to justify treating one retail worker differently to another, depending on where they work.

33. We support the proposal to introduce an aggravating factor to address concerns about adults exploiting children and young people by aiding or abetting them to offend.
34. Anecdotally, we are aware of situations where gangs encourage youths to offend, on the basis that they will be subject to lighter sentences through the Youth Court. This type of behaviour must be treated with a strong deterrent to discourage such activities.
35. Offenders livestreaming or posting serious crime online must also be treated seriously. Youths committing crimes and then posting them online to gain notoriety on social media is a recognised driver of retail crime, and Retail NZ supports the Bill's intent to take these activities into account at sentencing.
36. Taking a wider view, Retail NZ is concerned that introducing tougher sentencing provisions have the potential to further clog up the court system, creating longer delays in achieving justice for victims of retail crime and giving offenders more time to commit more crimes before conviction.

Conclusion

37. There is no single solution to reducing retail crime. Tougher sentencing measures will address only the most serious offending, after the offence has already taken place.
38. There is a role for retailers, Retail NZ and the Government to work together to address the root causes of retail crime, as well as making it more difficult for offenders to commit crimes.
39. Thank you for the opportunity to make a written submission, Retail NZ would like the opportunity to make an oral submission to the committee.
40. No part of this submission should be withheld under the OIA.

Sincerely,



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