

HOUSE BILL REPORT

HB 1394

As Reported by House Committee On:
Criminal Justice & Corrections

Title: An act relating to threshold property values for crimes against property.

Brief Description: Changing threshold property values for crimes against property.

Sponsors: Representatives Kagi, Delvin, O'Brien, Moeller, Sullivan, Cooper, Campbell, McIntire, Flannigan and Wallace.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/7/03, 2/21/03 [DPS].

Brief Summary of Substitute Bill

- Increases the dollar threshold values for the property crimes of malicious mischief, theft, unlawful issuance of checks or drafts, theft of rental or leased property, and possessing stolen property.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Lovick and Pearson.

Staff: Yvonne Walker (786-7841).

Background:

The penalties for property crimes are generally based on the actual value of the property stolen or damaged.

Malicious mischief. A person who knowingly and maliciously causes physical damage to the property of another is guilty of malicious mischief. The degree of the crime depends, in part, on the value of the property destroyed. If the property has a value of over \$1,500, the person is guilty of malicious mischief in the first degree (class B felony,

seriousness level II). If the property has a value of over \$250, but not exceeding \$1,500, the person is guilty of malicious mischief in the second degree (class C felony, seriousness level I). If the property has a value exceeding \$50, but not over \$250, the person is guilty of malicious mischief in the third degree (gross misdemeanor). If the property has a value of \$50 or less than the person is also guilty of malicious mischief in the third degree (misdemeanor).

Theft. A person who steals property or services is guilty of theft. The degree of the crime depends, in part, on the value of the property or services stolen. If the property or services has a value of over \$1,500, the person is guilty of theft in the first degree (class B felony, seriousness level II). If the property or services has a value of over \$250, but not exceeding \$1,500, or the theft involves the theft of a motor vehicle valued at less than \$1,500, the person is guilty of theft in the second degree (class C felony, seriousness level I). If the property or services has a value of \$250 or less, the person is guilty of theft in the third degree (gross misdemeanor).

Unlawful issuance of checks or drafts. A person who intentionally defrauds, makes, draws, or delivers to another person a bank check, knowing that he or she does not have sufficient funds or credit with a bank, is guilty of unlawful issuance of checks or drafts. When a series of unlawful checks are cashed that are considered part of a common scheme or plan, and the total value of all the transactions has a value greater than \$250, the person is guilty of a class C felony offense of unlawful issuance of a check or draft. If the total value of all the transactions has a value of \$250 or less, the person is guilty of a gross misdemeanor offense of unlawful issuance of a check or draft.

Theft of rental, leased, or lease-purchased property. A person who, with intent, wrongfully obtains or deceitfully gains control of personal property that is rented or leased from another person, is guilty of theft of rental, leased, or lease-purchase property. Theft of rental, leased, or lease-purchased property is a: class B felony if the rental, leased, or lease-purchased property is valued at \$1,500 or more; class C felony if the rental, leased, or lease-purchased property is valued at \$250 or more, but less than \$1,500; and gross misdemeanor if the rental, leased, or lease-purchased property is valued at less than \$250.

Possessing stolen property. A person who knowingly receives, retains, possesses, conceals, or disposes of stolen property (other than a firearm) knowing that it has been stolen is guilty of possessing stolen property. Possessing stolen property is a: class B felony if the value of the stolen property exceeds \$1,500 in value; class C felony if the value of the property stolen exceeds \$250 in value but does not exceed \$1,500 in value, or if the person possess a stolen motor vehicle valued at less than \$1,500; gross misdemeanor if the value of the stolen property does not exceed \$250 in value.

Summary of Substitute Bill:

The monetary threshold values for certain property crimes are increased.

Malicious mischief. The threshold values for malicious mischief crimes are increased to the following: if the property has a value of over \$2,500, the person is guilty of malicious mischief in the first degree; if the property has a value of over \$750, but not exceeding \$2,500, the person is guilty of malicious mischief in the second degree; if the property has a value exceeding \$50, but not over \$750, the person is guilty of malicious mischief in the third degree, a gross misdemeanor offense. The third degree malicious mischief crime punishable as a misdemeanor offense remains the same.

Theft. The threshold values for theft crimes are increased to the following: if the property or services has a value of over \$2,500, the person is guilty of theft in the first degree; if the property or services has a value of over \$750, but not exceeding \$2,500, or the theft involves the theft of a motor vehicle valued at less than \$2,500, the person is guilty of theft in the second degree; if the property or services has a value of \$750 or less, the person is guilty of theft in the third degree.

Unlawful issuance of checks or drafts. The threshold values for the unlawful issuance of checks or draft crimes when they are considered part of a common scheme or plan, are increased to the following: if the total value of all the transactions is greater than \$750, the person is guilty of a class C felony offense; if the total value of all the transactions has a value of \$750 or less, the person is guilty of a gross misdemeanor offense.

Theft of rental, leased, or lease-purchased property. The threshold values for the theft of rental, leased, or lease-purchase property crimes are increased. Theft of rental, leased, or lease-purchased property is a: class B felony if the rental, leased, or lease-purchased property is valued at \$2,500 or more; class C felony if the rental, leased, or lease-purchased property is valued at \$750, but less than \$2,500; gross misdemeanor if the rental, leased, or lease-purchased property is valued at less than \$750.

Possessing stolen property. The threshold value for possessing stolen property crimes are increased. Possessing stolen property is a: class B felony if the value of the stolen property exceeds \$2,500 in value; class C felony if the value of the property stolen exceeds \$750 in value but does not exceed \$2,500 in value, or if the person possess a stolen motor vehicle valued at less than \$2,500; gross misdemeanor if the value of the stolen property does not exceed \$750 in value.

Sentencing Guidelines Commission Study. The Sentencing Guidelines Commission (Commission) must conduct a study of threshold property values for crimes involving property, including but not limited to the following property crimes: malicious mischief, theft, unlawful issuance of checks or drafts, theft of rental, leased, or lease-purchased property, and possessing stolen property. As part of the study the Commission must: 1) review the need for changes in threshold property values beyond those established in the act for crimes involving property; and 2) identify viable mechanisms for establishing a

periodic review and adjustment of such values, and whether a particular mechanism should be recommended to the Legislature and the Governor. In conducting the study, the Commission must seek the participation of the business community, prosecuting attorneys, defense attorneys, local governments, and the Department of Corrections. The Commission must report its findings and any recommendations to the Legislature and the Governor by December 1, 2004.

Substitute Bill Compared to Original Bill:

A provision is added that requires the Commission to do a study on the threshold property values for crimes involving property to reflect today's inflation rates.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: There are a number of crimes in statute that are based on value and theft is the most prevalent crime. The Legislature set the current threshold values back in 1976. It was at that time that the threshold values of the gross misdemeanor crimes were raised from \$50 to \$250 to reflect 1976 inflationary values. Now in the year 2003, the inflation on these threshold values has increased to approximately \$850. Most shoplifted items are valued at more than \$250.

This bill is an upkeep of the laws and the formula to put this bill together was derived at increasing the 1976 threshold values to the year 2003 inflationary values.

Testimony Against: None.

Testified: Representative Kagi, prime sponsor; Representative O'Brien; and Tom McBride, Washington Association of Prosecuting Attorneys.