
**Public Safety & Emergency Preparedness
Committee**

ESSB 5225

Brief Description: Concerning crimes against property.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Kline and Hargrove).

Brief Summary of Engrossed Substitute Bill

- Creates an organized retail crime task force.
- Directs the Sentencing Guidelines Commission to review the monetary threshold amounts differentiating property crimes in the state.
- Increases the dollar threshold values for the property crimes of malicious mischief, theft, unlawful issuance of checks or drafts, theft of rental, leased, or loaned property, organized retail theft, and possessing stolen property.

Hearing Date: 3/17/09

Staff: Lara Zarowsky (786-7123)

Background:

The penalties for property crimes are generally based on the actual dollar value of the property stolen or damaged. The monetary amounts differentiating the various degrees of property crimes in this state were established in 1975 when the Washington Criminal Code was adopted, and has never been adjusted.

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.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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

Organized Retail Theft

A person is guilty of organized retail theft if he or she, with an accomplice, commits theft from a mercantile establishment and the value of the property is at least \$250.

- If the property stolen has a value of at least \$1,500, it is organized retail theft in the first degree, a class B felony.
- If the value of the stolen property is at least \$250 but less than \$1,500, it is organized retail theft in the second degree, a class C felony.

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, a seriousness level II, class B felony offense.
- If the property or services has a value of over \$250, but not exceeding \$1,500, the person is guilty of theft in the second degree, a seriousness level I, class C felony offense.
- If the property or services has a value of \$250 or less, the person is guilty of theft in the third degree, a gross misdemeanor offense.

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 transactions which constitute unlawful issuance of a bank check would, when considered separately, constitute unlawful issuance of a bank check in an amount of \$250 or less, because of value, and the series of transactions are a part of a common scheme or plan, the transactions may be aggregated in one count and the sum of the value of all the transactions must be the value considered in determining the penalty for the crime.

- If the total value of all the transactions has a value greater than \$250, the person is guilty of a seriousness level I, class C felony offense.
- If the total value of all the transactions has a value of \$250 or less, the person is guilty of a gross misdemeanor offense.

Theft of Rental, Leased, Lease-Purchased, or Loaned Property

A person is guilty of theft of rental, leased, lease-purchased, or loaned property if he or she with intent to deprive the owner, wrongfully obtains, exerts, or deceitfully gains control of personal property that is rented, leased, or loaned by written agreement to the person.

- If the property is valued at \$1,500 or more, it is a seriousness level II, class B felony offense.

- If the property is valued at \$250 or more but less than \$1,500, it is a seriousness level I, class C felony offense.
- If the property is valued at less than \$250, it is a gross misdemeanor offense.

Possessing Stolen Property

A person who knowingly receives, retains, possesses, conceals, or disposes of stolen property (other than a firearm or motor vehicle) knowing that it has been stolen is guilty of possessing stolen property.

- If the property is valued at more than \$1,500, it is a seriousness level II, class B felony offense.
- If the property is valued at more than \$250 but does not exceed \$1,500 in value, it is a seriousness level I, class C felony offense.
- If the property is value does not exceed \$250, it is a gross misdemeanor offense.

Summary of Bill:

I. The Organized Retail Crime Task Force (task force) is created to monitor the effects of raising the monetary threshold amounts used to define the various degrees of property crimes in the state. The task force will examine:

- the impact of raising the monetary values on the retail industry, the district and municipal courts, and the county and city offices of the prosecuting attorney;
- whether civil immunity should be granted for retailers who create a database of individuals suspected of theft and deliver the database to law enforcement; and
- policies or procedures, which would enhance investigation and prosecution of property crimes in the state.

The membership of the task force is specified in the bill and the members are not reimbursed for travel expenses. The task force findings and recommendations are reported to the Legislature.

II. The Sentencing Guidelines Commission (SGC) is directed to review the monetary threshold amounts differentiating the various degrees of property crimes in the state to determine whether such amounts should be modified. The SGC must report its recommendations to the Legislature by November 1, 2014, and every five years thereafter.

III. In addition to actual damages, the maximum penalty to the owner or seller of goods that are possessed by a person with the intention of converting the goods to his or her own use without payment is \$2,850 plus an additional penalty of not less than \$100 or more than \$638.

IV. The monetary threshold values for property crimes are increased.

Malicious Mischief

The monetary threshold values for the malicious mischief crimes are increased.

- If the property damaged has a value of \$5,000 or more, the person is guilty of malicious mischief in the first degree.
- If the property damaged has a value of over \$750, but not exceeding \$5,000, the person is guilty of malicious mischief in the second degree.
- If the property damaged has a value of \$750 or less, the person is guilty of malicious mischief in the third degree, a gross misdemeanor offense.

Organized Retail Theft

A mercantile establishment that has property alleged to have been stolen may request that the charge be aggregated with other thefts of property about which the mercantile is aware. If the prosecuting jurisdiction declines the request to aggregate, it must promptly advise the mercantile establishment and provide the reasons for the decision. The threshold values for organized retail theft are increased.

- A person is guilty of organized retail theft in the first degree, a class B felony, if the property has a value of at least \$5,000.
- A person is guilty of organized retail theft in the second degree, a class C felony, if the property has a value of at least \$750 but less than \$5,000.

Theft

The threshold values for theft crimes are increased.

- If the property or services stolen has a value of over \$5,000, the person is guilty of theft in the first degree.
- If the stolen property or services has a value of over \$750, but not exceeding \$5,000, the person is guilty of theft in the second degree.
- If the stolen 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 Draft

The threshold values for the unlawful issuance of checks or draft crimes are increased.

- A person is guilty of a class C felony offense if the total value of all the transactions is greater than \$750.
- 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, Lease-Purchased, or Loaned Property

The threshold values for the theft of rental, leased, lease-purchase, or loaned property are increased.

- Theft of rental, leased, lease-purchase, or loaned property is a class B felony offense if the property is valued at \$5,000 or more.
- The offense is a class C felony offense if the property is valued at \$750, but less than \$5,000.
- The offense is a gross misdemeanor offense if the property is valued at less than \$750.

Possessing Stolen Property

The threshold values for possession of stolen property crimes are increased.

- A person is guilty of possessing stolen property in the first degree if the value of the stolen property exceeds \$5,000 in value.
- A person is guilty of possessing stolen property in the second degree if the value of the property stolen exceeds \$750 in value, but does not exceed \$5,000 in value.
- A person is guilty of possessing stolen property in the third degree if the value of the stolen property does not exceed \$750 in value.

V. The act applies to crimes committed on or after September 1, 2009.

Appropriation: None.

Fiscal Note: Requested on March 10, 2009.

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