

HOUSE BILL REPORT

SSB 5438

*As Reported By House Committee on:
Judiciary*

Title: An act relating to increasing stolen property values for determining degree of theft.

Brief Description: Increasing stolen property values for determining degrees of theft.

Sponsor(s): Senate Committee on Law & Justice (originally sponsored by Senators Nelson, Owen, Talmadge and Moore).

Brief History:

Reported by House Committee on:
Judiciary, April 5, 1991, DPA.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *Do pass as amended.* Signed by 10 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Paris, Assistant Ranking Minority Member; Belcher; Hargrove; R. Meyers; H. Myers; Riley; Scott; and Wineberry.

Minority Report: *Do not pass.* Signed by 8 members: Representatives Padden, Ranking Minority Member; Broback; Forner; Inslee; Mielke; D. Sommers; Tate; and Vance.

Staff: Jeff Fishel (786-7191).

Background: The Legislature adopted the current Washington Criminal Code in 1975. The Criminal Code uses property values to define three degrees of theft and possessing stolen property, and two classes of unlawful issuance of checks or draft.

If the value of the property exceeds \$1,500, the offender commits first-degree theft or first-degree possession of stolen property, which are class B felonies. If the property value exceeds \$250 but is less than or equal to \$1,500, the offender commits second-degree theft or second-degree possession of stolen property, which are class C felonies. If the value of the property is less than or equal to \$250, the offender commits third-degree theft or possession of stolen property, which is a gross misdemeanor. An offender who writes a check greater than \$250 is guilty

of a class C felony; if less than or equal to \$250, the offender is guilty of a gross misdemeanor.

The values of property or services that are difficult to determine are deemed to be worth less than \$250.

An offender convicted of a class B felony may receive a maximum term of up to 10 years in jail and a fine of not more than \$20,000. For a class C felony, the offender may receive a maximum term of up to five years in jail and a fine of not more than \$10,000. For a gross misdemeanor, the offender may receive up to a year in jail and a fine of not more than \$5,000.

Inflation has diminished the real value of the \$250 limitation and in testimony before the Senate Law and Justice Committee prosecutors stated that sometimes charges are not filed because the inflated value of some property does not justify a felony charge.

Summary of Amended Bill: The upper property values for distinguishing between first and second degrees of theft and possession of stolen property are raised from \$1,500 to \$2,000.

The lower property values for distinguishing between second and third degrees of theft and possession of stolen property are raised from \$250 to \$500. The property value for distinguishing between a gross misdemeanor classification for the unlawful issuance of a check or draft and a class C felony is raised from \$250 to \$500.

The values of property or services that are difficult to determine are deemed to be worth less than \$1,000.

By statute, any change in the definition of a crime has no effect on the penalties and sentences of offenders convicted under the old definition, nor does it affect any criminal proceedings pending on the effective date of the act.

Amended Bill Compared to Substitute Bill: The substitute bill would not have raised the property value for distinguishing between second and third-degree theft and possession of stolen property, or for distinguishing between a gross misdemeanor and a class C felony, unlawful issuance of a check or draft.

Fiscal Note: Not requested.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Inflation has made prosecution of third or second-degree theft of possession of stolen property difficult, because the crime often does not justify a class C or B conviction. Some judges claim that it is an absolute defense against a gross misdemeanor charge if the actual value of the property is greater than \$250.

Testimony Against: Increasing the lower end of \$250 would allow career criminals to be punished without significant jail time. A higher low end should not be adopted without considering the impact on prosecution.

Witnesses: Suzanne Lee Elliot, Washington Association of Criminal Defense Lawyers (pro); Mike Redman, Washington Association of Prosecuting Attorneys (pro); and Judge Kip Stilz, District and Municipal Judges Association (pro).