

HOUSE BILL REPORT

ESSB 5769

As Reported By House Committee On:

Criminal Justice & Corrections

Title: An act relating to theft of property.

Brief Description: Concerning the theft of beverage crates and merchandise pallets.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Johnson and Goings).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/27/98, 2/27/98 [DPA].

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass as amended. Signed by 12 members: Representatives Ballasiotes, Chairman; Benson, Vice Chairman; Koster, Vice Chairman; Quall, Ranking Minority Member; O'Brien, Assistant Ranking Minority Member; Cairnes; Dickerson; Hickel; McCune; Mitchell; Radcliff and Sullivan.

Staff: Yvonne Walker (786-7841).

Background: Businesses who use merchandise pallets and/or beverage crates in their normal course of operation suffer nearly \$1 million in losses each year due to the misappropriation of the pallets and crates. It is estimated that in each shipment where these items are used, one quarter of the merchandise pallets and/or beverage crates are not returned to the owner.

A vibrant secondary market exists for the purchase and resale of these misappropriated items.

Prosecution of persons found in possession of the misappropriated merchandise pallets and/or beverage crates has historically been unsuccessful because it has been difficult to prove ownership of the pallets and/or crates.

Summary of Amended Bill: The section specifying that a person is guilty of theft in the third degree if he or she steals property valued at less than \$250 "including" 10 or

more beverage crates or pallets is changed to a person is guilty of theft if he or she steals property valued at less than \$250 "or" 10 or more beverage crates or pallets.

Amended Bill Compared to Engrossed Substitute Bill: The term "merchandise pallet" is defined as a wood or plastic carrier designed and manufactured as an item on which products can be placed prior to or during transport to retail outlets, manufacturers, or contractors, and affixed with language stating "property of . . .," "owned by . . .," or other markings or words identifying ownership.

The term "beverage crate" is defined as a plastic or metal box-like container used by a manufacturer or distributor in the transportation or distribution of individually packaged beverages to retail outlets, and affixed with language stating "property of . . .," "owned by . . .," or other markings or words identifying ownership.

Theft of 10 or more merchandise pallets, 10 or more beverage crates or a combination of 10 or more merchandise pallets and beverage crates is theft in the third degree, a gross misdemeanor.

Possessing 10 or more stolen merchandise pallets, 10 or more stolen beverage crates, or a combination of 10 or more stolen merchandise pallets and stolen beverage crates is possessing stolen property in the third degree, a gross misdemeanor.

A person found in possession of 10 or more stolen merchandise pallets, 10 or more stolen beverage crates, or a combination of 10 or more stolen merchandise pallets and stolen beverage crates is presumed to know that the property is stolen. This presumption is rebuttable by evidence raising a reasonable inference that the possession was without knowledge that the property was stolen.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: There are not enough teeth in the current law. Even law enforcement officers do not enforce the current law. Each month distributors lose approximately \$4,000 to \$5,000 per month in unreturned or stolen crates and beverages. Larger companies such as the Pepsi distributor can lose as much as \$100,000 per month. This may not seem like much money, but for many companies, especially some of the smaller ones, this is a large profit loss. Something needs to be done to penalize those offenders that are causing distributors to suffer nearly \$1 million in losses each year due to the misappropriation of the pallets and crates.

Testimony Against: None.

Testified: Pro: Dick Ducharne, Washington Beer and Wine Wholesalers; Dave Michener, Washington Soft Drink Association; and Mike Bjerke, Black Hills Distributing Company.