

HOUSE BILL REPORT

SSB 5628

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: Senate Committee on Judiciary (originally sponsored by Senators Brandland, Esser, Kline and Kohl-Welles; by request of Sentencing Guidelines Commission).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 3/21/03, 4/2/03 [DPA].

Brief Summary of Substitute Bill
(As Amended by House Committee)

- 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: Do pass as amended. Signed by 4 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Kagi and Lovick.

Minority Report: Do not pass. Signed by 3 members: Representatives Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; 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 (a 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-purchased 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; class C felony if the value of the property stolen exceeds \$250, but does not exceed \$1,500, or if the person possesses a stolen motor vehicle valued at less than \$1,500; a gross misdemeanor if the value of the stolen property does not exceed \$250.

Summary of Amended 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 \$500, but not exceeding \$2,500, the person is guilty of malicious mischief in the second degree; if the property has a value of less than \$500, the person is guilty of malicious mischief in the third degree, a gross misdemeanor offense.

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 \$500, 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 \$500 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 is \$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-purchased 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; class C felony if the value of the property stolen exceeds \$750 but does not exceed \$2,500, or if the person possesses a stolen motor vehicle valued at less than \$2,500; gross misdemeanor if the value of the stolen property does not exceed \$750.

Amended Bill Compared to Substitute Bill:

The threshold values for the crimes of theft and unlawful issuance of checks are decreased.

Theft in the second degree, a class C felony offense, includes stolen property or services

valued at over \$500 (instead of \$750) but not exceeding \$2,500. Theft in the third degree, a gross misdemeanor offense, includes stolen property or services valued at or less than \$500 (instead of \$750).

The threshold values for the crime of unlawful issuance of checks is decreased to the following: if the total value of all the transactions is greater than \$500 (instead of \$750), the person is guilty of a class C felony offense; if the total value of all the transactions has a value of \$500 or less (instead of \$750 or less), the person is guilty of a gross misdemeanor offense.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The threshold values for property crimes were changed in 1975. Currently, most prosecutors are not using the \$250 threshold value because they feel it is too low. They do not have the staff to handle these crimes as they did back in 1975. This bill will change the threshold values to reflect today's values.

One should be careful how they categorize these property crime issues. Property crimes even at today's low threshold levels are prosecuted in this state. Often times they are prosecuted in district court or municipal court and there is a broader range of punishment at that level. A district or municipal court judge can impose up to a year sentence for violating a property crime. In the felony system the maximum sentence for a level I offense is 60 days. The \$500 property crimes are generally not taken seriously in superior court, however they are taken more seriously in district and municipal courts.

In 1975 the threshold values were increased from \$50 to \$250 to recognize inflation. If you use today's actual inflationary numbers the threshold values would go up to \$1,400 for felony offenses. Today most bikes cost more than \$250 and the theft of a bike can be prosecuted as a felony; however this particular crime should be prosecuted as a misdemeanor crime.

(With concerns) There are concerns regarding increasing the monetary threshold for the crimes of theft and bad check writing. The retail industry loses approximately \$27 billion annually on external theft and by raising the thresholds on theft crimes those dollars will increase.

The food industry has the same concerns. Neighborhood grocery stores sell electronic equipment, DVD's, baby food, drug items, and other items of value. The problem is

once you raise the bar there is more wiggle room above that bar. Currently the bar is at \$250, however if you raise that threshold then criminals know they now have \$750 worth of room under the bar that they can steal before they can be prosecuted as committing a felony offense. Approximately \$10 million to \$15 million are lost each year due to theft in this state.

Testimony Against: None.

Testified: (In support) Senator Brandland, prime sponsor; and Tom McBride, Washington Association of Prosecuting Attorneys.

(With concerns) Dedi Hitchens, Washington Retail Association; and Holly Chisa, Washington Food Industry.