

SENATE BILL REPORT

HB 2704

As Reported By Senate Committee On:
Judiciary, February 23, 2006

Title: An act relating to organized retail theft.

Brief Description: Including organized retail theft in crime guidelines.

Sponsors: Representatives O'Brien, Pearson, Darneille, Kirby, Ahern, Williams, Strow, Kilmer, Green, Sells and Morrell.

Brief History: Passed House: 2/11/06, 95-0.

Committee Activity: Judiciary: 2/23/06 [DPA, w/oRec].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Carrell, Hargrove, Rasmussen and Thibaudeau.

Minority Report: That it be referred without recommendation.

Signed by Senators Johnson, Ranking Minority Member and Esser.

Staff: Aldo Melchiori (786-7439)

Background: The monetary amounts differentiating the various degrees of theft, possession of stolen property, malicious mischief, and unlawful issuance of a check or draft were established in 1975 when the Washington Criminal Code was first established. They have never been adjusted. For comparison, \$250 in 1975 is equivalent to \$936 now and \$1,500 in 1975 dollars is equivalent to \$5,618 now. When determining the value of the property involved, the value of separate third degree thefts or unlawful issuances of a check or draft may be aggregated if they are all part of a criminal episode or a common scheme or plan.

Trafficking in stolen property in the first degree is committed when a person knowingly initiates, organizes, plans, finances, directs, manages, or supervises the theft of property for sale to others, or who knowingly traffics in stolen property. This is a class B felony ranked at level IV on the sentencing grid (3-9 months confinement for a first offense).

Theft in the first or second degree and trafficking in the first degree are defined as acts of criminal profiteering. If a person commits three or more acts of criminal profiteering, he or she may be subject to the criminal profiteering act. Remedies include injunctive relief, forfeiture of profits and proceeds, up to three times actual damages, and recovery of the costs of the suit including reasonable investigative and attorney's fees.

Summary of Amended Bill: Theft, possession of stolen property, malicious mischief, and theft of leased or rental property in the first degree occur if the crimes involve property valued at over \$2,500. Theft, possession of stolen property, malicious mischief, and theft of leased or

rental property in the second degree occur if the crimes involve property valued at \$750 to \$2,500. Theft, possession of stolen property, malicious mischief, and theft of leased or rental property in the third degree occur if the crimes involve property valued at up to \$750. Unlawful issuance of checks or drafts in an amount greater than \$750 is a class C felony, but it is a gross misdemeanor if the amount is \$750 or less.

A series of thefts from one or more mercantile establishments over a 180 day period may be aggregated into one count and the sum of the value of all the property is the value considered in determining the degree of the theft. The aggregated theft count may then be prosecuted in any county in which any of the thefts occurred. Aggregated unlawful issuance of a bad check offenses may also be prosecuted in any county in which any of the offenses occurred.

Trafficking in stolen property in the first degree can also be committed when a person commits a series of thefts from one or more mercantile establishments over a 180 day period that have been aggregated into one count.

Amended Bill Compared to Original Bill: Instead of creating three new crimes, the amendment retains the aggregation of values for a series of thefts using the current theft and trafficking in stolen property crimes offenses. A series of offenses can be prosecuted in any county in which any of the thefts occurred. The definition of trafficking in stolen property is expanded to include thefts from one or more mercantile establishments over a 180 day period that are aggregated into one count.

Theft, possession of stolen property, malicious mischief, and theft of leased or rental property in the first degree occur if the crimes involve property valued at over \$2,500. Theft, possession of stolen property, malicious mischief, and theft of leased or rental property in the second degree occur if the crimes involve property valued at \$750 to \$2,500. Theft, possession of stolen property, malicious mischief, and theft of leased or rental property in the third degree occur if the crimes involve property valued at up to \$750.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: There has been a great increase in organized theft. This is a \$30 billion dollars a year problem nationally. These losses are passed on as higher prices for consumers. Retailers are struggling to deal with organized groups conducting serial thefts. These are not casual criminals; they attack stores in a concerted effort to take large quantities of goods for resale.

Testimony Against: None.

Who Testified: PRO: Representative O'Brien, prime sponsor; Cliff Finch, Washington Food Industry; Gary Gardner, BECU; David McBride, QFC; Shannon Humphrey, Walgreen; Joe Crump, UFCW; Chadd Thomas, Nordstrom; Mark Johnson, Washington Retail ASC; Tom McBride WAPA.