

SSB 5225 - S AMD 69

By Senator Kastama

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) An organized retail crime task force is
4 created for the purpose of monitoring the effects of raising the
5 monetary threshold amounts differentiating the various degrees of
6 property crimes in Washington state. The task force is directed to
7 examine the impact of raising these values on (a) the retail industry;
8 (b) the district and municipal courts; and (c) the county and city
9 offices of the prosecuting attorney. The task force shall also examine
10 whether civil immunity should be granted for retailers who create a
11 common database of individuals suspected of theft and who deliver the
12 database to law enforcement agencies. In addition, the task force is
13 charged with identifying any policies or procedures which would enhance
14 the successful investigation and prosecution of property crimes in
15 Washington state.

16 (2) The task force shall consist of the following members:

17 (a) One member from each of the two largest caucuses of the house
18 of representatives, appointed by the speaker of the house of
19 representatives;

20 (b) One member from each of the two largest caucuses of the senate,
21 appointed by the president of the senate;

22 (c) One member appointed by the Washington association of
23 prosecuting attorneys;

24 (d) One member appointed by the Washington association of criminal
25 defense lawyers;

26 (e) One member appointed by the association of Washington cities;

27 (f) One member appointed by the association of Washington counties;

28 (g) One member appointed by the food industry association of
29 Washington representing retail grocers who own a single store or a

1 regional chain with less than ten million five hundred thousand dollars
2 in gross revenues per location annually; and

3 (h) One member appointed by the Washington association of retailers
4 representing a retailer who owns a single store or a chain with one
5 million five hundred thousand dollars or more in gross revenues
6 annually.

7 The superior court judges association and the district and
8 municipal court judges association are each invited to select a judge
9 to be a member of the task force.

10 (3) The task force shall choose its chair from among its members
11 and may conduct meetings, select officers, and prescribe rules of
12 procedure.

13 (4) Staff for the task force will be provided by the staff of the
14 legislature.

15 (5) Legislative members of the task force shall not be reimbursed
16 for travel expenses. Nonlegislative members must seek reimbursement
17 for travel and other membership expenses through their respective
18 agencies or organizations.

19 (6) The task force is subject to the open public meetings act,
20 chapter 42.30 RCW.

21 (7) The task force shall report its findings and recommendations to
22 the appropriate committees of the legislature eighteen months after the
23 effective date of this section.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A RCW
25 to read as follows:

26 The sentencing guidelines commission shall review the monetary
27 threshold amounts differentiating the various degrees of property
28 crimes in Washington state to determine whether such amounts should be
29 modified. The sentencing guidelines commission shall report to the
30 legislature with its recommendations by November 1, 2014, and every
31 five years thereafter.

32 **Sec. 3.** RCW 4.24.230 and 1994 c 9 s 1 are each amended to read as
33 follows:

34 (1) An adult or emancipated minor who takes possession of any
35 goods, wares, or merchandise displayed or offered for sale by any
36 wholesale or retail store or other mercantile establishment without the

1 consent of the owner or seller, and with the intention of converting
2 such goods, wares, or merchandise to his or her own use without having
3 paid the purchase price thereof (~~(shall be)~~) is liable in addition to
4 actual damages, for a penalty to the owner or seller in the amount of
5 the retail value thereof not to exceed (~~(one)~~) two thousand eight
6 hundred fifty dollars, plus an additional penalty of not less than one
7 hundred dollars nor more than (~~(two)~~) six hundred thirty-eight dollars,
8 plus all reasonable attorney's fees and court costs expended by the
9 owner or seller. A customer who orders a meal in a restaurant or other
10 eating establishment, receives at least a portion thereof, and then
11 leaves without paying, is subject to liability under this section. A
12 person who shall receive any food, money, credit, lodging, or
13 accommodation at any hotel, motel, boarding house, or lodging house,
14 and then leaves without paying the proprietor, manager, or authorized
15 employee thereof, is subject to liability under this section.

16 (2) The parent or legal guardian having the custody of an
17 unemancipated minor who takes possession of any goods, wares, or
18 merchandise displayed or offered for sale by any wholesale or retail
19 store or other mercantile establishment without the consent of the
20 owner or seller and with the intention of converting such goods, wares,
21 or merchandise to his or her own use without having paid the purchase
22 price thereof, (~~(shall be)~~) is liable as a penalty to the owner or
23 seller for the retail value of such goods, wares, or merchandise not to
24 exceed (~~(five)~~) one thousand four hundred twenty-five dollars plus an
25 additional penalty of not less than one hundred dollars nor more than
26 (~~(two)~~) six hundred thirty-eight dollars, plus all reasonable
27 attorney's fees and court costs expended by the owner or seller. The
28 parent or legal guardian having the custody of an unemancipated minor,
29 who orders a meal in a restaurant or other eating establishment,
30 receives at least a portion thereof, and then leaves without paying, is
31 subject to liability under this section. The parent or legal guardian
32 having the custody of an unemancipated minor, who receives any food,
33 money, credit, lodging, or accommodation at any hotel, motel, boarding
34 house, or lodging house, and then leaves without paying the proprietor,
35 manager, or authorized employee thereof, is subject to liability under
36 this section. For the purposes of this subsection, liability shall not
37 be imposed upon any governmental entity, private agency, or foster

1 parent assigned responsibility for the minor child pursuant to court
2 order or action of the department of social and health services.

3 (3) Judgments and claims arising under this section may be
4 assigned.

5 (4) A conviction for violation of chapter 9A.56 RCW shall not be a
6 condition precedent to maintenance of a civil action authorized by this
7 section.

8 (5) An owner or seller demanding payment of a penalty under
9 subsection (1) or (2) of this section shall give written notice to the
10 person or persons from whom the penalty is sought. The notice shall
11 state:

12 "IMPORTANT NOTICE: The payment of any penalty demanded of you does
13 not prevent criminal prosecution under a related criminal provision."

14 This notice shall be boldly and conspicuously displayed, in at
15 least the same size type as is used in the demand, and shall be sent
16 with the demand for payment of a penalty described in subsection (1) or
17 (2) of this section.

18 **Sec. 4.** RCW 9A.48.070 and 1983 1st ex.s. c 4 s 1 are each amended
19 to read as follows:

20 (1) A person is guilty of malicious mischief in the first degree if
21 he or she knowingly and maliciously:

22 (a) Causes physical damage to the property of another in an amount
23 exceeding ((one)) five thousand ((five hundred)) dollars;

24 (b) Causes an interruption or impairment of service rendered to the
25 public by physically damaging or tampering with an emergency vehicle or
26 property of the state, a political subdivision thereof, or a public
27 utility or mode of public transportation, power, or communication; or

28 (c) Causes an impairment of the safety, efficiency, or operation of
29 an aircraft by physically damaging or tampering with the aircraft or
30 aircraft equipment, fuel, lubricant, or parts.

31 (2) Malicious mischief in the first degree is a class B felony.

32 **Sec. 5.** RCW 9A.48.080 and 1994 c 261 s 17 are each amended to read
33 as follows:

34 (1) A person is guilty of malicious mischief in the second degree
35 if he or she knowingly and maliciously:

1 (a) Causes physical damage to the property of another in an amount
2 exceeding ~~((two))~~ seven hundred fifty dollars; or

3 (b) Creates a substantial risk of interruption or impairment of
4 service rendered to the public, by physically damaging or tampering
5 with an emergency vehicle or property of the state, a political
6 subdivision thereof, or a public utility or mode of public
7 transportation, power, or communication.

8 (2) Malicious mischief in the second degree is a class C felony.

9 **Sec. 6.** RCW 9A.48.090 and 2003 c 53 s 71 are each amended to read
10 as follows:

11 (1) A person is guilty of malicious mischief in the third degree if
12 he or she:

13 (a) Knowingly and maliciously causes physical damage to the
14 property of another, under circumstances not amounting to malicious
15 mischief in the first or second degree; or

16 (b) Writes, paints, or draws any inscription, figure, or mark of
17 any type on any public or private building or other structure or any
18 real or personal property owned by any other person unless the person
19 has obtained the express permission of the owner or operator of the
20 property, under circumstances not amounting to malicious mischief in
21 the first or second degree.

22 ~~((a))~~ Malicious mischief in the third degree ~~((under~~
23 ~~subsection (1)(a) of this section is a gross misdemeanor if the damage~~
24 ~~to the property is in an amount exceeding fifty dollars.~~

25 ~~(b) Malicious mischief in the third degree under subsection (1)(a)~~
26 ~~of this section is a misdemeanor if the damage to the property is fifty~~
27 ~~dollars or less.~~

28 ~~(c) Malicious mischief in the third degree under subsection (1)(b)~~
29 ~~of this section)) is a gross misdemeanor.~~

30 **Sec. 7.** RCW 9A.56.030 and 2007 c 199 s 3 are each amended to read
31 as follows:

32 (1) A person is guilty of theft in the first degree if he or she
33 commits theft of:

34 (a) Property or services which exceed(s) ~~((one))~~ five thousand
35 ~~((five hundred))~~ dollars in value other than a firearm as defined in
36 RCW 9.41.010;

- 1 (b) Property of any value, other than a firearm as defined in RCW
- 2 9.41.010 or a motor vehicle, taken from the person of another; or
- 3 (c) A search and rescue dog, as defined in RCW 9.91.175, while the
- 4 search and rescue dog is on duty.
- 5 (2) Theft in the first degree is a class B felony.

6 **Sec. 8.** RCW 9A.56.040 and 2007 c 199 s 4 are each amended to read
7 as follows:

8 (1) A person is guilty of theft in the second degree if he or she
9 commits theft of:

10 (a) Property or services which exceed(s) (~~two~~) seven hundred
11 fifty dollars in value but does not exceed (~~one~~) five thousand (~~five~~
12 ~~hundred~~) dollars in value, other than a firearm as defined in RCW
13 9.41.010 or a motor vehicle; or

14 (b) A public record, writing, or instrument kept, filed, or
15 deposited according to law with or in the keeping of any public office
16 or public servant; or

17 (c) An access device.

18 (2) Theft in the second degree is a class C felony.

19 **Sec. 9.** RCW 9A.56.050 and 1998 c 236 s 4 are each amended to read
20 as follows:

21 (1) A person is guilty of theft in the third degree if he or she
22 commits theft of property or services which (a) does not exceed (~~two~~)
23 seven hundred (~~and~~) fifty dollars in value, or (b) includes ten or
24 more merchandise pallets, or ten or more beverage crates, or a
25 combination of ten or more merchandise pallets and beverage crates.

26 (2) Theft in the third degree is a gross misdemeanor.

27 **Sec. 10.** RCW 9A.56.060 and 1982 c 138 s 1 are each amended to read
28 as follows:

29 (1) Any person who shall with intent to defraud, make, or draw, or
30 utter, or deliver to another person any check, or draft, on a bank or
31 other depository for the payment of money, knowing at the time of such
32 drawing, or delivery, that he or she has not sufficient funds in, or
33 credit with (~~said~~) the bank or other depository, to meet (~~said~~) the
34 check or draft, in full upon its presentation, (~~shall be~~) is guilty
35 of unlawful issuance of bank check. The word "credit" as used herein

1 shall be construed to mean an arrangement or understanding with the
2 bank or other depository for the payment of such check or draft, and
3 the uttering or delivery of such a check or draft to another person
4 without such fund or credit to meet the same shall be prima facie
5 evidence of an intent to defraud.

6 (2) Any person who shall with intent to defraud, make, or draw, or
7 utter, or deliver to another person any check, or draft on a bank or
8 other depository for the payment of money and who issues a stop-payment
9 order directing the bank or depository on which the check is drawn not
10 to honor (~~(said)~~) the check, and who fails to make payment of money in
11 the amount of the check or draft or otherwise arrange a settlement
12 agreed upon by the holder of the check within twenty days of issuing
13 (~~(said)~~) the check or draft (~~(shall be)~~) is guilty of unlawful issuance
14 of a bank check.

15 (3) When any series of transactions which constitute unlawful
16 issuance of a bank check would, when considered separately, constitute
17 unlawful issuance of a bank check in an amount of (~~(two)~~) seven hundred
18 fifty dollars or less because of value, and the series of transactions
19 are a part of a common scheme or plan, the transactions may be
20 aggregated in one count and the sum of the value of all of the
21 transactions shall be the value considered in determining whether the
22 unlawful issuance of a bank check is to be punished as a class C felony
23 or a gross misdemeanor.

24 (4) Unlawful issuance of a bank check in an amount greater than
25 (~~(two)~~) seven hundred fifty dollars is a class C felony.

26 (5) Unlawful issuance of a bank check in an amount of (~~(two)~~) seven
27 hundred fifty dollars or less is a gross misdemeanor and shall be
28 punished as follows:

29 (a) The court shall order the defendant to make full restitution;

30 (b) The defendant need not be imprisoned, but the court shall
31 impose a (~~(minimum)~~) fine of (~~(five)~~) up to one thousand one hundred
32 twenty-five dollars. Of the fine imposed, at least (~~(fifty)~~) three
33 hundred seventy-five dollars or an amount equal to one hundred fifty
34 percent of the amount of the bank check, whichever is greater, shall
35 not be suspended or deferred. Upon conviction for a second offense
36 within any twelve-month period, the court may not suspend or defer
37 (~~(only that)~~) any portion of the fine (~~(which is in excess of five~~
38 ~~hundred dollars)~~)).

1 **Sec. 11.** RCW 9A.56.096 and 2007 c 199 s 17 are each amended to
2 read as follows:

3 (1) A person who, with intent to deprive the owner or owner's
4 agent, wrongfully obtains, or exerts unauthorized control over, or by
5 color or aid of deception gains control of personal property that is
6 rented, leased, or loaned by written agreement to the person, is guilty
7 of theft of rental, leased, lease-purchased, or loaned property.

8 (2) The finder of fact may presume intent to deprive if the finder
9 of fact finds either of the following:

10 (a) That the person who rented or leased the property failed to
11 return or make arrangements acceptable to the owner of the property or
12 the owner's agent to return the property to the owner or the owner's
13 agent within seventy-two hours after receipt of proper notice following
14 the due date of the rental, lease, lease-purchase, or loan agreement;
15 or

16 (b) That the renter, lessee, or borrower presented identification
17 to the owner or the owner's agent that was materially false,
18 fictitious, or not current with respect to name, address, place of
19 employment, or other appropriate items.

20 (3) As used in subsection (2) of this section, "proper notice"
21 consists of a written demand by the owner or the owner's agent made
22 after the due date of the rental, lease, lease-purchase, or loan
23 period, mailed by certified or registered mail to the renter, lessee,
24 or borrower at: (a) The address the renter, lessee, or borrower gave
25 when the contract was made; or (b) the renter, lessee, or borrower's
26 last known address if later furnished in writing by the renter, lessee,
27 borrower, or the agent of the renter, lessee, or borrower.

28 (4) The replacement value of the property obtained must be utilized
29 in determining the amount involved in the theft of rental, leased,
30 lease-purchased, or loaned property.

31 (5)(a) Theft of rental, leased, lease-purchased, or loaned property
32 is a class B felony if the rental, leased, lease-purchased, or loaned
33 property is valued at (~~one~~) five thousand (~~five hundred~~) dollars or
34 more.

35 (b) Theft of rental, leased, lease-purchased, or loaned property is
36 a class C felony if the rental, leased, lease-purchased, or loaned
37 property is valued at (~~two~~) seven hundred fifty dollars or more but
38 less than (~~one~~) five thousand (~~five hundred~~) dollars.

1 (c) Theft of rental, leased, lease-purchased, or loaned property is
2 a gross misdemeanor if the rental, leased, lease-purchased, or loaned
3 property is valued at less than (~~two~~) seven hundred fifty dollars.

4 (6) This section applies to rental agreements that provide that the
5 renter may return the property any time within the rental period and
6 pay only for the time the renter actually retained the property, in
7 addition to any minimum rental fee, to lease agreements, to lease-
8 purchase agreements as defined under RCW 63.19.010, and to vehicles
9 loaned to prospective purchasers borrowing a vehicle by written
10 agreement from a motor vehicle dealer licensed under chapter 46.70 RCW.
11 This section does not apply to rental or leasing of real property under
12 the residential landlord-tenant act, chapter 59.18 RCW.

13 **Sec. 12.** RCW 9A.56.150 and 2007 c 199 s 6 are each amended to read
14 as follows:

15 (1) A person is guilty of possessing stolen property in the first
16 degree if he or she possesses stolen property, other than a firearm as
17 defined in RCW 9.41.010 or a motor vehicle, which exceeds (~~one~~) five
18 thousand (~~five hundred~~) dollars in value.

19 (2) Possessing stolen property in the first degree is a class B
20 felony.

21 **Sec. 13.** RCW 9A.56.160 and 2007 c 199 s 7 are each amended to read
22 as follows:

23 (1) A person is guilty of possessing stolen property in the second
24 degree if:

25 (a) He or she possesses stolen property, other than a firearm as
26 defined in RCW 9.41.010 or a motor vehicle, which exceeds (~~two~~) seven
27 hundred fifty dollars in value but does not exceed (~~one~~) five
28 thousand (~~five hundred~~) dollars in value; or

29 (b) He or she possesses a stolen public record, writing or
30 instrument kept, filed, or deposited according to law; or

31 (c) He or she possesses a stolen access device.

32 (2) Possessing stolen property in the second degree is a class C
33 felony.

34 **Sec. 14.** RCW 9A.56.170 and 1998 c 236 s 2 are each amended to read
35 as follows:

1 (1) A person is guilty of possessing stolen property in the third
2 degree if he or she possesses (a) stolen property which does not exceed
3 ((~~two~~)) seven hundred fifty dollars in value, or (b) ten or more stolen
4 merchandise pallets, or ten or more stolen beverage crates, or a
5 combination of ten or more stolen merchandise pallets and beverage
6 crates.

7 (2) Possessing stolen property in the third degree is a gross
8 misdemeanor.

9 **Sec. 15.** RCW 9A.56.350 and 2006 c 277 s 2 are each amended to read
10 as follows:

11 (1) A person is guilty of organized retail theft if he or she:

12 (a) Commits theft of property with a value of at least ((~~two~~))
13 seven hundred fifty dollars from a mercantile establishment with an
14 accomplice; or

15 (b) Possesses stolen property, as defined in RCW 9A.56.140, with a
16 value of at least ((~~two~~)) seven hundred fifty dollars from a mercantile
17 establishment with an accomplice.

18 (2) A person is guilty of organized retail theft in the first
19 degree if the property stolen or possessed has a value of ((~~one~~)) five
20 thousand ((~~five-hundred~~)) dollars or more. Organized retail theft in
21 the first degree is a class B felony.

22 (3) A person is guilty of organized retail theft in the second
23 degree if the property stolen or possessed has a value of at least
24 ((~~two~~)) seven hundred fifty dollars, but less than ((~~one~~)) five
25 thousand ((~~five-hundred~~)) dollars. Organized retail theft in the
26 second degree is a class C felony.

27 (4) For purposes of this section, a series of thefts committed by
28 the same person from one or more mercantile establishments over a
29 period of one hundred eighty days may be aggregated in one count and
30 the sum of the value of all the property shall be the value considered
31 in determining the degree of the organized retail theft involved.
32 Theft committed by the same person in different counties that have
33 been aggregated in one county may be prosecuted in any county in which
34 any one of the thefts occurred.

35 (5) The mercantile establishment or establishments whose property
36 is alleged to have been stolen may request that the charge be
37 aggregated with other thefts of property about which the mercantile

1 establishment or establishments is aware. In the event a request to
2 aggregate the prosecution is declined, the mercantile establishment or
3 establishments shall be promptly advised by the prosecuting
4 jurisdiction making the decision to decline aggregating the prosecution
5 of the decision and the reasons for such decision.

6 NEW SECTION. Sec. 16. A new section is added to chapter 3.50 RCW
7 to read as follows:

8 Before a sentence is imposed upon a defendant convicted of a crime
9 against property, the court or the prosecuting authority shall check
10 existing judicial information systems to determine the criminal history
11 of the defendant.

12 NEW SECTION. Sec. 17. A new section is added to chapter 3.66 RCW
13 to read as follows:

14 Before a sentence is imposed upon a defendant convicted of a crime
15 against property, the court or the prosecuting authority shall check
16 existing judicial information systems to determine the criminal history
17 of the defendant.

18 NEW SECTION. Sec. 18. A new section is added to chapter 35.20 RCW
19 to read as follows:

20 Before a sentence is imposed upon a defendant convicted of a crime
21 against property, the court or the prosecuting authority shall check
22 existing judicial information systems to determine the criminal history
23 of the defendant.

24 NEW SECTION. Sec. 19. This act applies to crimes committed on or
25 after September 1, 2009."

SSB 5225 - S AMD
By Senator

26 On page 1, line 1 of the title, after "property;" strike the

1 remainder of the title and insert "amending RCW 4.24.230, 9A.48.070,
2 9A.48.080, 9A.48.090, 9A.56.030, 9A.56.040, 9A.56.050, 9A.56.060,
3 9A.56.096, 9A.56.150, 9A.56.160, 9A.56.170, and 9A.56.350; adding a new
4 section to chapter 9.94A RCW; adding a new section to chapter 3.50 RCW;
5 adding a new section to chapter 3.66 RCW; adding a new section to
6 chapter 35.20 RCW; creating new sections; and prescribing penalties."

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